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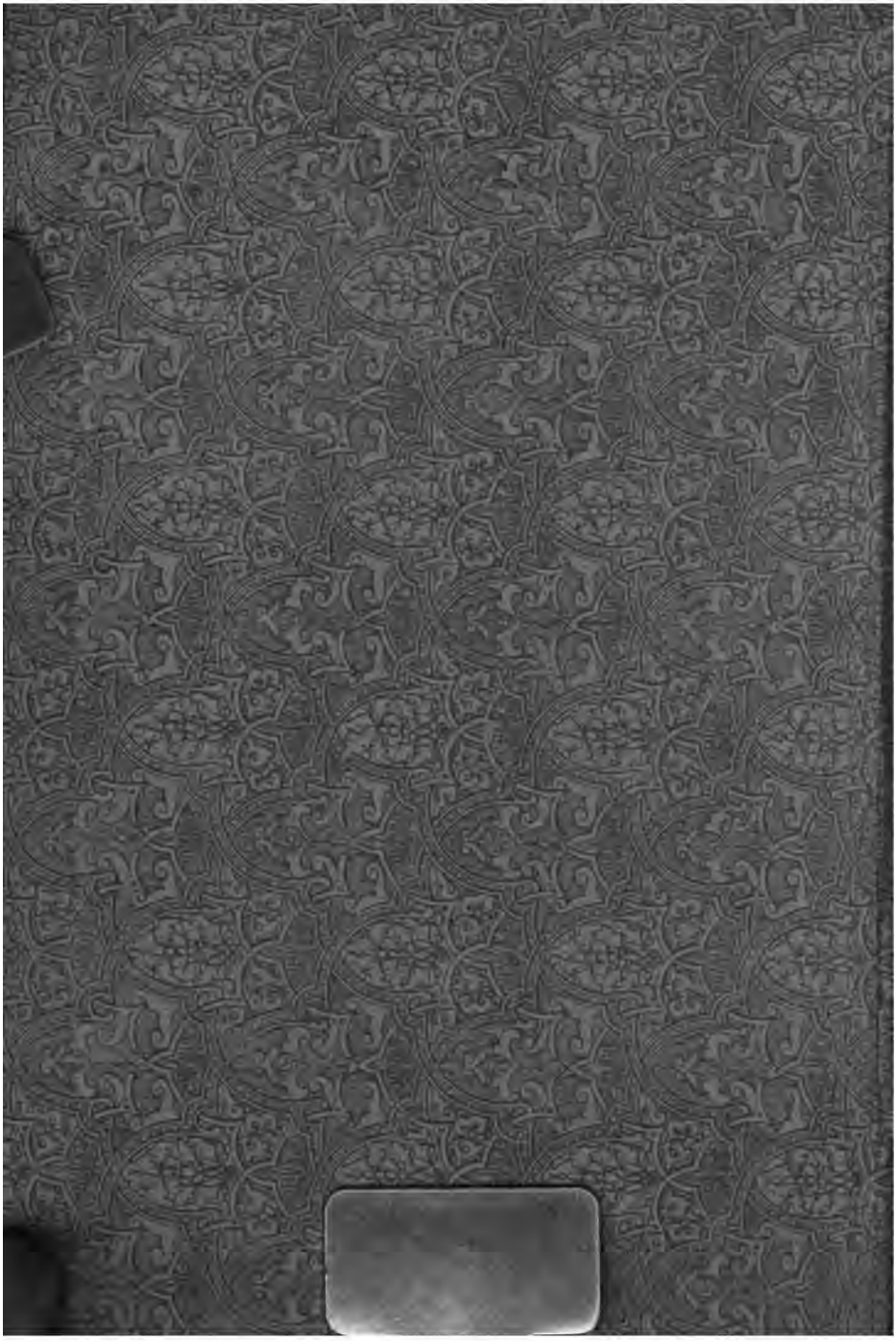

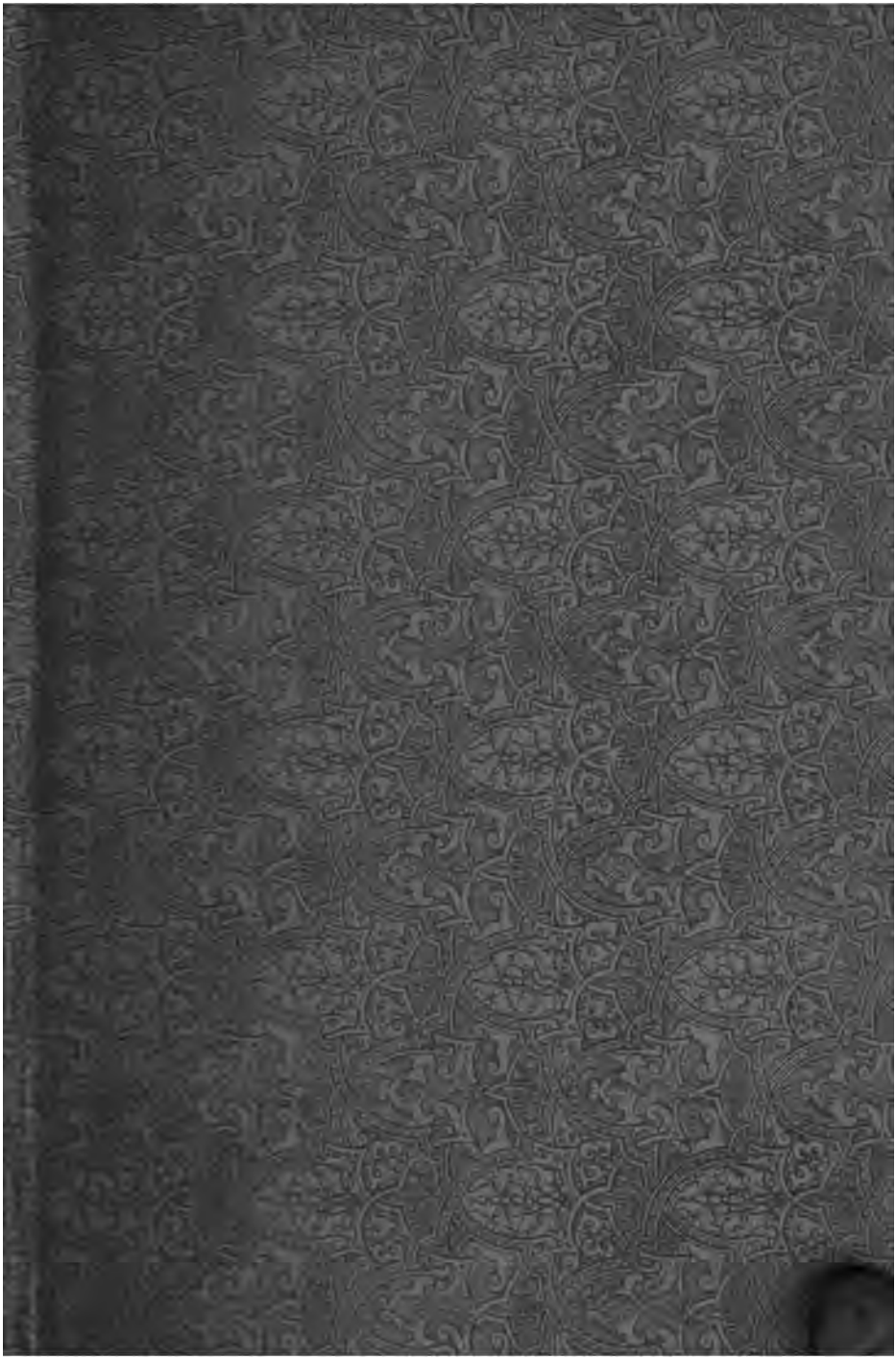

THE MUNSTER CIRCUIT.

TALES, TRIALS, AND TRADITIONS.

BY

J. R. O'FLANAGAN,

BARRISTER-AT-LAW, AUTHOR OF "THE IRISH BAR," "LIVES OF THE LORD CHANCELLORS OF IRELAND," ETC.

BIBLIOTHECA FEB 80 BODLEIANA

"Tales of war for lordly knight,
Tales of love for lady bright;
Trials of Witch to please the heir,
Trials of blood the maids to scare."

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TO THE FATHER

AND MEMBERS OF THE MUNSTER BAR,

WHO WORTHILY MAINTAIN THE RENOWN

OF THE MUNSTER CIRCUIT,

This Work is Dedicated

BY THEIR FORMER BROTHER,

THE AUTHOR.

PREFACE.

A LEARNED and distinguished friend, thoroughly conversant with legal subjects, a barrister and LL.D., wrote to me thus:—

"We have a fair supply of forensic speeches, biography, and law, but scarcely any forensic literature. I hope you will continue to work the mine, which is a rich one."

As my "Irish Bar" has reached the second edition within six months from its first publication, and many regretted it was not enlarged, it has occurred to me to bring out, as a companion to this work, one entitled "The Munster Circuit." Accordingly, I have prepared this present volume, containing trials of general interest, both civil and criminal, sketches of circuit towns, notices of Judges of Assize, and eminent Members of the Circuit, tales and traditions of the district, affording information and amusement, not merely for the professional, but for the general public.

The compilation of this work has shown me how

every successive age presents much the same mixture of good and bad characters. That vice crops up where one would expect virtues to flourish, and that no rank, however noble or highly educated, is exempt from the outburst of passions which cause the perpetration of crime:—how the discovery of criminals is a proof of the mysterious wisdom of Providence. Many of the trials are as full of startling incidents as the most sensational work of fiction, often more so.

An article in the "Law Magazine and Law Review" for August, 1858, offered me some valuable suggestions for this work. I read,—

"If our grave reporters of law cases would adopt a course intermediate between the loose, hurried, and inaccurate reports of the newspaper, and the very grave, and very dry professional reports, and with as much practical living interest as the case admits of, our people would welcome their work, and read them with quite as much interest as they do parliamentary and other reports.

"It would not be without great benefit to the public, to the legislator, to the administrator, and to the profession, if the rich illustrations of actual life to be found in the reported cases, were stated in a popular manner, with some annotations, indicating where litigation springs, how much is due to the natural and inevitable play of human passions, to the neglect of the commonest rules of prudence, to the

pedantic and unnatural adherence to technical rules belonging to a bygone period, to the carelessness of legislation, and the errors that arise from reference to carelessly written books."

Now, without going so systematically to work as the writer here recommends, I have, to a considerable extent, adopted his suggestions. In my selection of trials and traditions—especially the trials—I have endeavoured to give living interest to the scenes which are described by the witnesses. I have selected, not so much leading cases illustrating legal principles, as ordinary transactions, exemplifying the conduct of men in their daily lives,—the transactions of all ranks, high and low, rich and poor. They indicate the object that history should teach, viz.: how—by observing the result of certain rash or criminal acts—to avoid their commission, and thus bear out the truth of the axiom, "History is Philosophy teaching by example."

I have endeavoured, in all cases, whether of those wherein the litigants have passed away, or still survive, to do my teaching delicately, and cautiously deducing such inferences as may be useful to others in their future conduct, and proving how impossible it is to avoid often criminal responsibility for deviations from the path of rectitude.

In selecting the field for my labours, it was natural I should choose that with which I was most familiar—the Munster Circuit. This in former, as well as recent times and now, numbered at its Bar men pre-eminent

in public as well as professional reputation; and, when one of these departed this life, I often thought how important it would be to possess some faithful record of his career. In some earlier papers I noticed the resemblance between the Nisi Prius lawyer and the actor. He is on the stage, playing his part. Struggling for his client with all the energies of his nature, his eloquence fills and delights the ear; his legal arguments, his subtle points, are often adopted by the Bench; his cases are apposite, and the Court rules with him; juries, fascinated by his language, and the depth, clearness, and soundness of his arguments, and the ability with which he addresses them, give their verdict; and the spectator leaves the court, impressed with the notion of the counsel's uncommon talents, as he would the theatre, having witnessed the performance of a consummate actor.

Both off the stage, having left their respective scenes of action, the public lose sight of them. They live only in the society of their family and friends. While the theatrical critic notices the performance of the actor, the characteristics of the barrister are unnoticed, or only remembered by some one present when the *bon mot* was uttered, or the able argument or brilliant speech delivered. If not reported in the public journals, there is rarely any trace; and, even in such cases, how transient it is—what we read in the newspaper to-day is effaced by the papers of to-morrow, and thus no permanent record remains. My

object is, as far as in me lies, to prevent this. My researches in Irish Legal History and Legal Biography, when compiling my LIVES OF THE LORD CHANCELLORS OF IRELAND, afforded me facilities for the preparation of the present work, a considerable portion of which appeared in the DUBLIN UNIVERSITY MAGAZINE from March to October, 1876. I then traced the HISTORY OF THE MUNSTER CIRCUIT from the time of QUEEN ELIZABETH to the reign of our Sovereign Lady QUEEN VICTORIA; but circumstances prevented me making the work as full as I intended, and, having the right of republication, I resolved to bring out the work in a more complete form. This I hope is now done. I trust the members of the legal profession in Ireland, to many of whom I owe great gratitude for their generous recognition of my literary works, will deem this volume worthy that support and distinction which has already been accorded to my former productions.

J. R. O'FLANAGAN.

Grange House, Fermoy.

P.S.—I am indebted to his Grace the Duke of Devonshire for permission to avail myself of the records preserved in the Castle of Lismore, to which his Grace's most courteous agent, Mr. Currey, and his son, kindly facilitated my researches. I received much kind aid from the Rev. Canon Hayman, Rector of Douglas, county Cork, and W. J. Fitzpatrick, Esq., J.P., Dublin; great help in my collection of anecdotes of the

Munster Circuit from my esteemed friend, Thomas Rice Henn, Q.C., Recorder and County Court Judge of Galway, and his cousin, Richard Griffith, Esq., of Millicent, county Cork, greatgrandson of Lord Chief Baron Walter Hussey Burgh; and likewise from a most promising member of the Munster Bar, whose early death was a cause of grief to a large circle of friends, Thomas Kelly, Esq., nephew of Edmond, first Baron Fermoy.

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THE MUNSTER CIRCUIT.

CHAPTER I.

Renown of the Munster Circuit.—Munster under the Lord Presidents.—Faithful under Trials: a Tale of Queen Elizabeth's Reign. — Extent of the Munster Circuit. — Lord Deputy Perrott and Marshal Bagnal.—State of Munster from the Geraldines.—Confiscation.—Spenser and Raleigh.—Spenser at Kilcolman.—Burnt out.

THE MUNSTER CIRCUIT! What proud memories are associated with that name! What splendid eloquence, high courage, intrepid advocacy, skilful pleadings, are connected with its history! To one born within the province—a member of its Bar—enjoying for many years the friendly intercourse of the distinguished body of practitioners attending each assizes, tracing its history, tales, trials, and traditions will, assuredly, be a labour of love.

I make no invidious comparisons between the Munster and other circuits; but my esteemed friend, the late Mr. Daniel Owen Madden, has left in print this estimate of the Munster Bar:—"The Munster Bar has always ranked the first in Ireland. Its circuit takes rank, like the Northern in England.

Many barristers, without Southern connexions, have joined it, from the opportunities it presents of finding amusement, political connexions, or the means of professional advancement. In Ireland, one has said everything for its favour when he reminds the listener that 'it was Curran's circuit.'"

It is not easy to determine the precise period when Judges of Assize first went the Munster Circuit. We find, from the State Papers, that the Brehon laws were observed in most country districts of Ireland in 1537; but, in the reign of Queen Elizabeth, Munster was placed under the charge of a Lord President, with very ample judicial powers. He had authority to hear and determine all complaints throughout the province, as well guildable as belonging to the franchises of corporations, and might send for and punish any officer against whom such complaint was made. The Presidents had commission of Oyer and Terminer, as well as of gaol delivery, of the whole province, and might hold their courts when and where they thought proper, with power to execute martial law upon all persons who had not 5*l.* of freehold, or goods to the value of 10*l.*, and could prosecute any rebel with fire and sword, and for this purpose might array any number of the Queen's loyal subjects. They could hear and determine all complaints against magistrates and officers, civil and military, throughout the province of Munster and the crosses and liberties of Tipperary and Kerry, and might punish the offenders at discre-

[1] "Revelations of Ireland," p. 3.

tion. They had, also, authority to put persons accused of high treason to the torture, and to reprieve condemned persons. They were entitled to issue proclamations tending to the regulation of the Queen's subjects.

Besides this very extensive jurisdiction in criminal cases, I find the President had as much in civil. He could entertain all suits, could confer knighthood, and was, in fact, a provincial Viceroy, just as the Lord Lieutenant was for the entire kingdom.

The Lord President had his sergeant-at-arms, with his mace and his retinue, or escort, of thirty horse and twenty foot. He had his captain, and guidon, and trumpeter. His court was presided over by a chief justice and second justice. He had his attorney, clerk of the council, clerk of the crown, sergeant-at-arms, and provost-marshal. The cost of the establishment of Lord President of Munster in 1598 was 1951*l.* 16*s.* 8*d.* —a liberal sum in those days.

Yet the office does not seem to have been a pleasant one. Sir John Perrott—appointed Lord President at the close of 1570—had a troublesome time of it, and for his reward incurred the enmity of the fair sex as well as the male. Writing to Cecil, the Lord President of Munster says, "Among the rest of my doings here, I have caused all the Irishry in this province to forego their glybbes; and have waded into a further danger, as in banishing the great rolls from the wearing of ladies, gentlewomen, and all others of these parts, by which means I am assured to have no wyfe in these places."

The ungallant Lord President must have been the

"cold-hearted Saxon" our national bard had in his thoughts when he wrote,—

> "And I'll gaze on thy gold hair, as graceful it wreathes,
> And hang on thy soft harp, as wildly it breathes;
> Nor dread that the *cold-hearted Saxon* will tear
> One chord from that harp, or one lock from that hair."

Whether the Deputy, Sir Henry Sidney, thought the Lord President, Sir John Perrott, somewhat deficient in his duties, or of attending to trivial matters—as in the case of the glibbes—I know not; but that high functionary arrived in Cork in 1575, and, according to his own account, lost no time in executing the laws. He says, "I caused daily session to be held in the city from the morrow after twelfth day to the last of January, in which appeared very honest and good juries, sound and good trials made by them. A number of civil causes heard and determined, and about twenty-four notable malefactors condemned and executed. Condon attainted and adjudged to die, yet stayed from execution, for, as the word goeth here, his fault was only small."

Munster at this period was the property of several noble families, chiefly Anglo-Normans, others of Irish descent. The O'Briens ruled over Thomond, which comprised nearly the whole of Clare, with portion of Limerick: the puissant house of Ormond, the greater parts of Waterford and Tipperary. The Earl of Desmond had vast estates in the counties of Cork, Limerick, Tipperary, and Waterford. The Earl of Clancarthy ruled over the west of Cork and most of Kerry; while the Lords Barry, Roche, De Courcy, and

Dunboyne were intermarried with the Irish races of MacCarthy, O'Sullivan, O'Callaghan, MacDonogh, O'Loghlen, Macnamara, and other Celtic chiefs of the province.

Sometimes Irish young ladies would refuse to wed out of their own country. A story to illustrate this national preference may be termed fairly,

Faithful under Trials.

A Tale of Queen Elizabeth's Reign.

Queen Elizabeth, though unwed herself, was a great matchmaker, and took vigorous measures in love, as in politics or war, to gain her ends. When Sir Thomas Norreys was Vice-President of Munster, Lady Ellen MacCarthy, only daughter of the Earl of Clancarthy, was the *belle* of the President's Court. Young, beautiful, and accomplished, this lovely girl was the greatest heiress of her time. By the death of her only brother, Lord Valentia, she became the apparent heiress to the immense possessions of her family in Carbery, Muskerry, and Duhallow. We make no doubt this, in addition to her personal charms, caused many to sue for her hand. The Lady Ellen was deaf to the solicitations of haughty knights and puissant English lords, who sought her, for she had already bestowed her heart's affections upon a gallant young Irishman, Florence MacCarthy. They had been much together in childhood, played, rambled, and followed the chase side by side in the woods, glens, and over the rugged hills of wild Carbery. He was a youth of comely presence and knightly bearing, and attracted the eye of

England's Sovereign, who desired to have handsome men in her train. As the poet said regarding Sir Christopher Hatton,—

> "His bushy beard, and shoestrings green,
> His high-crown'd hat, and satin doublet,
> Moved the stout heart of England's Queen,
> Though Pope or Spaniard could not trouble it."

So Florence MacCarthy was employed in the Court of the Queen, while the object of his devoted affection was exposed to the assiduous attentions of the crowd of suitors she attracted around her in Ireland.

The Vice-President of Munster, Sir Thomas Norreys, was not insensible to the charms of the beautiful young lady, or the extent of her fortune. He was well known as a brave and distinguished soldier, and possessed of that urbanity of manner, and love of literature, so conspicuous at the present day in his excellent descendant, Sir Denham Norreys, Bart. But, despite his worth, though backed by the influence of Sir Warham St. Leger, President of Munster, he failed to gain Lady Ellen's heart.

Another suitor was Nicholas Browne, son of Sir Valentine Browne, who contrived to enlist for his son the powerful influence of the Queen. He had an additional argument, which was sometimes used with success. He held a mortgage over the estates of the Earl of Clancarthy, and, putting on the screw, the lady's father tried to gain, from filial devotion, the daughter's consent. But this effort also was unavailing. She said "she was not inclined to marry any English gentleman;" and, when the Queen sent a request,

which most read as a command, "for Lady Ellen to marry Master Nicholas Browne,"[2] the spirited young lady started at once for the Court of the Lord President, and protested against the Royal mandate. She "denied the Queen's right to coerce a noble Irish maiden to contract such an alliance. Why should the daughter of Clancarthy's noble earl espouse the son of a mere baronet?" The argument seemed to have weight with the Lord President. He wrote to Sir Francis Walsingham, then Secretary of State, "that the match ought not to be pressed." He comforted the agitated girl with the assurance "that it did not stand with the course of her Majesty's blessed Government that any should be forced to marry against their wills." It is very probable that Florence MacCarthy, then sojourning at head-quarters, knew how far her Majesty's *blessed Government* would allow the young lady any will in the matter; for he very speedily returned to Ireland, sought his beloved kinswoman, and made such representations to her that she immediately consented to be his wife, and, in a few days, the news reached Cork that Florence MacCarthy and Lady Ellen were man and wife. Then the haughty Queen showed what her will was. She got into a passion, ordered the arrest of bride and bridegroom, of the Countess of Clancarthy, and all who were concerned in what she styled "this contemptuous action." So Florence and his lately-wedded wife were seized, and spent their honeymoon in Cork Gaol. They had, it seems, a good-natured gaoler, for Sir Valentine Browne

[2] Ancestor of the Earls of Kenmare.

complains in lugubrious terms, that indicate how woefully he was disappointed in not having the well-dowered Lady Ellen for daughter-in-law, in a letter to Walsingham, that, "at Corcke, Florence, with the Earl's daughter, remaynethe with small restraynthe, and rather rejoyceth with banquettings than seemeth sorrie."

This caused a sad parting. Florence's

"Living in clover, alas, was soon over."

He was committed to the Tower of London, and the disconsolate bride kept in durance in Cork.

But she was resolved to seek a restitution of conjugal rights. She contrived to enlist the aid of one of her guards, and was supplied with peasants' dresses for herself and her maid. Thus disguised, they effected their escape from Cork, and eluded the vigilant search which the Lord President caused to be made for their recovery. At length Lady Ellen appeared, in about the last place one would seek her—the Court of Queen Elizabeth. She besought her Majesty to pardon her husband and herself. She pleaded earnestly for this boon. She told of their mutual affection, their confidence and faith in each other under severe trials and temptations. The Queen was steeled against pity. The unhappy Lady Ellen suffered much. Her means were exhausted. The rents of her husband were stayed, the remittances of her family were intercepted, and she was left, bereft of friends or means, in the capital of England. She was sorely tempted. The Queen took the opinion of the law officers on the marriage of these

minors, and it was declared null and void. Proceedings for divorce were instituted, but the brave young Irish girl disclaimed being a consenting party to these proceedings, and declared she would die sooner than give up her husband. Her constancy won her the esteem of Lord Burleigh, and his counsels had weight with the Queen. She yielded at last, and Florence, released from the Tower, clasped to his heart his long-lost, but ever-constant, Lady Ellen MacCarthy.

The Munster Circuit—first provincial—comprehends now the counties of Clare, Limerick, Kerry, and Cork. In the reign of Queen Elizabeth, the status of Clare was unsettled. In reply to a letter from the Queen, dated 4th July, 1562, recommending the then Viceroy, the Earl of Sussex, to establish provincial courts for the Presidencies of Connaught, Ulster, and Munster, the Viceroy recommended "that Clare should not be within the Presidencies of either Connaught or Munster, but that the Earl of Thomond, Chief of Clare, should be as the person lying between both Presidencies, and should be a member of both councils, ready to assist either, as circumstances might require." [3]

The first attempt to hold a court in the county of Clare seems to have been attended with danger to the President of Connaught. The Earl of Thomond refused to attend, and though the President, Sir Edward Fitton, held the court in the Franciscan Abbey at Ennis, in 1570, the sacredness of the place, or of the nature of his office, formed no protection to the Lord

[3] Carew MSS., 329.

President, for he was so unpopular he was obliged to place himself under the protection of the Sheriff of Thomond, who conducted him back to Galway without delay.

In 1576 Clare was joined to Munster; but, in the year 1579, again restored to the jurisdiction of the Court of the President of Connaught.[4] This arrangement, however, was not found satisfactory to the Earl of Thomond; for I find that, in A.D. 1602, on the petition of that nobleman, the county of Clare was once more detached from the jurisdiction of the President's Court of Connaught, and united to Munster, to which it now belongs.

I find that Sir John Perrott, when removed from the office of President of Munster, and made Lord Deputy, as the Viceroy was then called, went from the frying-pan into the fire. He petitioned the Queen to relieve him of an office "which the perverseness of her subjects in Ireland of the English race had rendered intolerable. "I find I can please your Majesty's Irish subjects better than the English, who, I fear, will shortly learn the Irish customs sooner than the Jews did those of the Hebrews." If the Lord Deputy had many altercations like that related in Gibson's "History of Cork,"[5] his life cannot have been a very tranquil one. "It is not," says the reverend historian, "surpassed in the Southern States of America. The 15th of May, 1587, very angry words passed between the Lord Deputy and Sir Nicholas Bagnal, Marshal, in the presence of the Chief Justice, the Master of the Rolls, and the

[4] "Lib. Munerum Hib."

[5] Vol. i. p. 216.

Secretary of State, upon occasion that one Patrick Cullan (who used to go into England in the name of O'Neal, with complaints to her Majesty against the Lord Deputy) was ordered to be examined before the Council. The Marshal requested that the Lord Deputy should not be present at the examination; upon which the Lord Deputy, taking it ill to be directed by him, told him, 'that though he would not be present at it he would do what he thought fit!'

"The Marshal replied: 'He mistrusted false measures would be used.'

"The Deputy said: 'He defy'd him, or any other man, who should think any false measure should come by him.'

"The Marshal said: 'He defy'd him also.'

"Hereupon the Deputy, with the flat of his hand, touched his cheek once or twice, and laying his other hand on his right shoulder, said: 'Well, well, Marshal, if you defy'd a man in my place in another country, he would have hanged you.'

"The Marshal hereat held up his staff, as if he would have struck the Deputy, but Mr. Fenton, the Secretary, and Sir Nicholas White, Master of the Rolls, interposing themselves, the Marshal fell back, and, rising up, said: 'It will be proved you have done ill in this matter.'

"The Lord Deputy: 'You lye, if you say I have done ill in this matter.'

"Marshal: 'You lie'—and, correcting himself, 'If you were not Lord Deputy I would say you lie; but I care not for Sir John Perrott.'

"The Deputy replied: 'If I were but Sir John

Perrott I would teach you to use me thus; and if you did not dote I would commit you to prison.'

"'If you do,' answered the Marshal, 'I would come out whether you would or no.'

"The Lord Deputy said: 'Get you hence, for 'tis no reason to talk with you; for a man would think you were drunk.'

"'You are drunk,' reply'd the Marshal.

"What was the end of this discourse is not known, nor the cause of it, only to believe that the Marshal was a great friend to Cullan."[6]

The quondam Lord President of Munster had incurred the enmity of several of the high officials, and often used strong words in reference to the Queen, his reputed half-sister, for he was an illegitimate son of Henry VIII. These words formed a ground of impeachment for high treason, on which he was found guilty and sentenced to death. He attributed his conviction to the enmity of Sir Christopher Hatton, whom he styled a carpet knight; and when he heard his sentence, exclaimed, "God's death! will my sister sacrifice her brother to his frisking adversaries?" When she heard these words, so like what she would have used herself, she refused to sign his death-warrant, saying, "They be all knaves who condemned him." And when pressed with his saying of herself, "That fiddling woman troubles me out of measure; it is not safe for her Majesty to break such sour bread to her servants"—remembered the rescript of the Emperor Theodosius, which, she said, should rule this

[6] Gibson's "History of Cork," vol. i. p. 216.

case. "If any man speak ill of the Emperor through a foolish rashness or inadvertency, it is to be despised; if out of madness, it deserves pity; if from malice, it calls for mercy."[7] Her mercy did not avail the condemned knight, for Sir John Perrott died in the Tower.

The next Munster Circuit I find on record was that of Sir William Drury, who, in 1576, like Sir Henry Sydney, took a circuit of all the great towns in Munster, to confirm laws and regulations. He destroyed malefactors and robbers, and put to death Barrett, of Cork, and two noble and distinguished young constables, of the tribe of Maolmurry, or MacSweeny. He proceeded thence to Limerick, where he hung a number of chiefs and of the common people.

The Rev. Mr. Gibson considers it was during this tour the Earl of Desmond invited Sir William to pay him a visit at his castle at Tralee, intending to make him prisoner. The Deputy went, escorted by 120 men. The Earl's retinue was a trifle more numerous, if not so warlike, numbering 800 Galloglasses, or heavy-armed soldiers, and Kerns, as the light infantry were called. It would appear as if the Earl of Desmond was not present with his men, for when the Lord President, not liking their array in his path, charged through the Irish forces and reached the castle, he was received, not by the lord, but by his lady.

The Deputy demanded, "Why so many armed bands guarded the approach to the castle?"

[7] Lord Campbell's "Lives of the Lord Chancellors of England," vol. ii. p. 168.

The lady seemed amused at his trepidation, and assured him that what he mistook for hostile forces was only a hunting party, and that instead of intending to dispute his approach, they only meant to welcome him to Kerry.

This explanation satisfied, or, at least, was deemed sufficiently satisfactory by the Deputy. But that official had too much knowledge of the disaffection of the Desmond race to be easily imposed upon. Ere long they raised the standard of revolt, and James Fitzmaurice, the Earl's cousin, brought over Spanish and Italian forces, who ravaged Munster. Thereupon, Captain Malby, President of Connaught, was sent as Vice-President into Munster to assist Sir William Drury during the war. This was A.D. 1579.

Sir William suffered some reverses, which naturally preyed upon his mind. A fierce engagement took place between his troops and those of the Geraldines at Springfield, in which he was defeated, nearly all his band of 400 men cut to pieces, and three of his captains (Herbert, Eustace, and Price) slain. He left Kilmallock ill, and, surrendering the command to Captain Malby, was conveyed in a carriage to Waterford, where he died.

For several years Munster was a battle-field, the forces of the Geraldines making a desperate resistance against the troops of Queen Elizabeth; but in 1584, when Sir John Norris was President, the Earl of Desmond was slain in a battle in the county of Kerry, his adherents dead or scattered, and a general peace was proclaimed throughout Ireland in general, and the two provinces of Munster in particular—that is to say,

the part of Munster south of the Blackwater, and North Munster, between the Blackwater and Limerick. Of these provinces a large portion was, by the attainder of the Earl of Desmond, forfeited to the Crown. His territory extended from Duncasin, in Kerry, to the meeting of the Suir, Nore, and Barrow, in Waterford, and from the Great Island—now the site of Queenstown, county of Cork—to Limerick; a country containing a million of acres, of which 574,628 were, by special Act of Parliament, passed in 1583, declared confiscated to the Crown.

Among those Englishmen who, as undertakers, obtained large grants of the forfeited estates of the Earl of Desmond, two are especially renowned in literature—Sir Walter Raleigh and Edmund Spenser. Raleigh also distinguished himself by dashing exploits during the Desmond wars. His escape from the seneschal of Imokilly, and his capture of Lord Roche, are deeds worthy the fame of a knight-errant. He obtained an enormous tract of the Desmond country, along the valley of the Blackwater, from Lismore to Youghal, in which town he occupied a residence, still in excellent preservation, called Myrtle Grove, and which, I understand, has lately become the property, by purchase, of Mr. Pope Hennessy, who is engaged in collecting curiosities for a museum, to illustrate, I presume, the remarkable career of Sir Walter Raleigh.

Edmund Spenser was also one of the undertakers. He came to Ireland as secretary to Lord Gray, in 1580, and, having made himself useful to the Government, obtained a grant of 3000 acres of the forfeited

estates of the Earl of Desmond. His grant was situated on the north part of the county of Cork. Here he occupied the Castle of Kilcolman, about midway between the towns of Doneraile and Buttevant —now a picturesque, ivy-mantled ruin, on the lands of Ballyvonere. Here he composed his great work, the "Faërie Queene" and a number of minor poems. He was visited here by his friend Sir Walter Raleigh, on which occasion he composed the poem, "Colin Clout's come Home again," a work of much interest, from its accurate description of the topography and scenery of the neighbourhood. Had Spenser confined his writing to poetry it had been better for his fame, but he did not. He wrote a treatise called "A View of the State of Ireland," which lay in manuscript from 1596 until published by Sir James Ware in 1635. The horrible mode he advocated for civilizing the country, by getting rid of the inhabitants, does little credit to his head or heart. If he allowed such visions to escape him, and they were disclosed to the Irish people, we cease to wonder at the terrible fate which ended his residence at Kilcolman. This is very graphically described by a valued reverend friend of mine, so I prefer giving his account to my own:—

"Kilcolman Castle is now a ruin, and a fast-perishing one. There are no signs about it of past glories in architecture or gardener's skill, and the very traces of fire have been washed by the elements, and the memorials of the poet's ruin have passed away along with the tokens of his joy. But Mulla [8] flows past it now as it

[8] The river Awbeg is poetically called the "Mulla" by Spenser.

did then, and the everlasting hills still keep their watch over the stern old building. The slippery staircase of stone is yet perfect, which Raleigh and Spenser often trod up and down together; and there is a deep-recessed window, with a stone seat on each side, and a view from it of a wide-spreading tract of champagne country, and we could fancy the poet (as old Aubrey, in his 'Lives,' has painted him), a little man wearing short hair, with laced shirt-collar and cuffs, seated on one of these seats; and opposite to him his Elizabeth, with those fayre golden tresses he so much loved.

"It was a lovely evening in the autumn of the year, and the sun was westering his course towards the remote hills, and that young couple sat together, watching, with unspeakable rapture, the magnificent sun's going down, and the declining rays glistened on the surface of a small, calm lake near them, and, farther off, were multiplied in the waters of the Mulla, which sparkled in them like burnished silver. Then, like a dark curtain, darkness was slowly drawn over the prospect, and, after a little while, were heard tones of the evening hymn, and a low, calm voice pleaded humbly in prayer; and, soon after, all sounds ceased, and the inmates of the castle were hushed in repose. Then succeeded an hour or two of stillness, and, after that, was borne on the night-wind the tramp of a thousand feet; louder they grew, and yet louder, as they drew near that lonely building. And rude knocking was heard at the gate, and the passage was forced in, and lights flared up on all sides; and there were shrieks, and groans, and commingling cries of men engaged in fierce battle. Savage numbers pre-

vailed, and applications for mercy were met by the sweep of the broadsword or the thrust of the skein, or the low, short laugh of derision. And the tumult grew less, and the cries died away, and then all was hushed in the silence of death.

"Then came a vision of a rough and stormy ocean, and a struggling bark was wildly contending on it with the mad tempest. And there were terrified fugitives crouching low on her deck, and looking with eager eyes towards a blue, low-lying shore they were, with difficulty, approaching. And then the scene changed to a plainly-furnished room, in an inferior street; and the wanderers were there, and knew of their safety; but the strong man's cheek was flushed with disease, the fever was feeding upon his strength, his head was sick, and his heart was broken.

"And then, in a gorgeous aisle of a reverend Minster, we saw a crowd assemble, and a grave was dug, and a long procession issued from a low-arched door near at hand, and proceeded towards the grave. And the nobles of the land were there, and poets read their eulogies of the deceased, and cast the verses, and the pens that wrote them, into the pit. And then there was the rumbling of earth upon the coffin-lid, and the hollow thumping of the sexton's spade, and suppressed sobs and tears, the dying away of departing footsteps—dust and ashes—and the earthly clay of what was Edmund Spenser remained—to wait the trumpet of the Resurrection Day."

Spenser's widow, who regained the Kilcolman estate, married, in 1603, Mr. Roger Seckerstone. Sylvanus, the poet's eldest son, obtained an inquisition, which

was taken at Mallow, on the Munster Circuit, on the 7th of August, 1611. By a copy of the finding of the jury, now before me, I observe the jurors presented—"That portions of the seignory, granted by patent by the late Queen Elizabeth, unto Edmund Spenser, late of Kilcolman, in the county of Cork, Esq., deceased, after his death descended unto Sylvanus Spenser, his son and heir, who doth now possess the same—viz., the Castle of Kilcolman, with ccc acres of land p. ell of the said seignory, being the demesne lands of the same." It then goes on to recite the various other denominations of land, and their acreage, tenants' names, rents, &c., with any particulars of which it is unnecessary to load our pages.

It may, however, be interesting to learn that Sylvanus Spenser married the eldest daughter of David Nagle, of Monanimy Castle, on the banks of the Blackwater, county of Cork, and her grandniece was the mother of the Right Honourable Edmund Burke. The Rev. Mr. Gibson suggests that the great statesman was called *Edmund* after the poet. For a full account of the poet Spenser's descendants, *vide* Rev. Mr. Gibson's "History of Cork," vol. i., chapter xvi.

Sir Thomas Norris, President of the two provinces of Munster, and his brother, Sir John Norris, made a raid into Ulster in 1595. They marched to Newry, and passed from thence towards Armagh. When they had proceeded about half-way, they were met by the Irish forces, who proceeded to annoy, shoot, pierce, and spear them. The General, Sir John, and Sir Thomas were wounded upon that occasion.

Soon after this, Sir Thomas Norris returned to Cork,

and held a court, when, in 1596, Conor O'Brien was convicted of stealing cattle, in the great wood near Charleville, and hung. The President fell in battle in 1599. Thomas Burke, of Castleconnell, who was then in rebellion, met the President within two miles of Pallas Green, in the county of Limerick. The President fell mortally wounded from the thrust of a pike, where the jawbone joins the upper part of the neck.[9]

In 1600, Sir Warham St. Leger, President of Munster, met his death as he and some other officers were riding for recreation near Cork. Within a mile of the city, Sir Warham St. Leger and one of his servants, straggling from his company, were suddenly charged upon by Hugh Maguire, Lord of Fermanagh, a commander of cavalry, under O'Neill. "Sir Warham discharged his pistol, and shot the traytor, and hee (St. Leger) was strucken with the other (Maguire's) horseman's staff in the head, of which wound hee dyed, but none else on either side was slain."[1]

The next President of Munster was the cautious and crafty statesman, Sir George Carew. His policy was to set the Irish chiefs against each other, and thus weaken them, so they could be easily dealt with. He caused James Fitzgerald, Earl of Desmond, who had been for sixteen years a prisoner in the Tower, to be released and brought to Ireland. On his arrival at Kilmallock, long the chief seat of the Desmonds, and at this day displaying traces of its great magnificence in lofty castles and stately mansions, he was welcomed with enthusiasm. The tenants and adherents of this

[9] Gibson's "History of Cork," vol. i. p. 317.

[1] "Pacata Hibernia."

puissant family flocked to hail his coming—the young men and maidens, the old followers and their families, met him on the outskirts of the town. The windows of the houses which overlooked the streets, the tops of the roofs, were thronged with eager spectators, and shouts of wishes for his prosperity greeted the approach to his ancestral halls of the young Earl of Desmond.

Short-lived was the welcome to the Earl. The next day was Sunday, and, instead of proceeding, as his ancestors had done, to the Catholic church, where they always heard Mass, he went to the Protestant church. The joy of the people at his coming was turned into grief for his forsaking the creed of his family. They could not restrain their manifestations of anger and disgust. On his way back from the Protestant church, accompanied by the Archbishop of Cashel, both he and the Archbishop were hooted, hissed, and insulted.[2]

This terminated the Earl's career in Ireland. He had failed to win the people. The President sent him back to Queen Elizabeth, who recommitted him to the Tower, where he died in a few months.

[2] Ibid.

CHAPTER II.

The White Knight's Vow.—A Tradition of the Desmond Wars.—Sarsfield's Rebellion.—Refusal to proclaim King James I. King in Cork and Waterford.

THE fate of the remaining Earl of Desmond, commonly called the "Sugan Earl," was little less bitter. Hunted from house to house—outlawed as a traitor, he sought refuge in a mountain cave in the territory of FitzGibbon, usually termed the "White Knight." The President, who was made acquainted with this circumstance of the outlawed earl's place of shelter, which was unknown to the White Knight, sent a trusty soldier, Sir Walter Raleigh, to discover the retreat of the outlawed earl, and arrest him, if possible. I have described what took place in the following tale, called

THE WHITE KNIGHT'S VOW.

Evening closed round the Castle of Kilbenny; the day had been sultry, every object around was distinct to the sight, and every sound struck the ear in that deathlike stillness in which nature is wrapt when the summer heat prevails. The shades of coming night seemed to increase the size of the towers, while wreaths of ivy growing on the battlements, were silvered by the moonlight as it glanced through the thickly-loopholed

walls, or flickered from the deep mullioned windows. To the right flowed the river Funcheon, sweeping round the lawn of the castle; to the left were brown forests, climbing the mountain's side, while, beyond their dark masses, ridge rose above ridge, height mounted on height, of the lofty Galtees. In the majesty of array Kilbenny Castle, thus seen from a distance, caused a travel-stained horseman, who had hitherto urged his gallant grey at a rapid pace, to draw rein, and admire the scene. He was a well-built, soldierly-looking man, in the prime of life, his countenance noble and full of dignity, to which his elaborately-trimmed moustache and peaked beard contributed. His attire denoted his calling a martial one. Over his doublet glanced a steel breastplate, while thick buff gloves came high on his arms; plates of armour protected his thighs, and were met at the knees by long trooper's boots. A broad-brimmed hat, looped at one side with a richly-jewelled buckle, from which a plume of white ostrich feathers gaily fluttered, gave an air of gallantry to a bearing bold and chivalrous. The rider was well armed; heavy silver-mounted pistols protruded from the holsters of his saddle; the long rapier of the Tudor days hung by his side, while a short dagger, called in the days of knight-errantry *misericorde*, was fastened in his gold-embroidered belt.

"By our Virgin Queen!" soliloquised the soldier, "but our doubtful ally, the White Knight, has a noble stronghold."

He suffered his eyes to wander slowly over the lovely landscape, as though it was a pleasure to rest them on

the green fields, the wild, undulating hills, and the foliage of summer boughs.

"How sweetly my gentle Spenser tuned his verse to praise this scenery in his 'Faërie Queene.' But these lawless villains would not suffer him to dwell amongst them. They burned the roof over his head—drove him forth with wife and babes—and now my poor Spenser sleeps with the poets of old."

The tear which rolled down the bronzed cheek of the stranger, as he thought of the fate of his countryman and friend, told of a sensitive heart; yet he dashed it hastily aside, and, as though ashamed of the momentary weakness, struck his spurs in the flanks of his gallant steed, and resumed his rapid course.

In good time had he done so. A ripple of the river beside him showed a breeze was blowing from the hills; clouds drove rapidly athwart the sky; the mists rolled from the valleys, and rain began to fall. A vivid flash of lightning shone through the gloom, and disclosed the gate of the castle close at hand.

While the mounted cavalier approached the walls from the west, two foot-men advanced from the opposite direction. Despite the haste both made to escape the coming storm, they walked not abreast; one, considerably the elder, remained a pace or two behind his companion, whom he addressed with marked deference.

"How fortunate we were to accomplish our work," observed the younger man.

"True for you, FitzGibbon," replied the other; "but, *ochone!* what a place for the likes of him! Instead of his grand castles, and his company of knights

and nobles, to be lodged in the Cave of Slievegort, just as though he was a badger, or a *modereen ruad*,[1] and shure, he just is run to earth."

"Well, Shawn,[2] cheer up. Who knows what may come when the White Knight takes heart again. He is now in dread of his own safety. Hark! is not that a bugle sound?"

They had reached a small wicket, leading into the Castle, as they heard a shrill blast, as of some one outside the drawbridge gate.

"There it is again!" said the young man, "and as I live, I wot well whose cursed lips brought out that note. I heard it before to-day."

"Whose, my young master?" whispered Shawn.

"That insolent minion of England's Queen who lately got three whole baronies of my hunted kinsman's property, and has therefore good reason to seek his life. Curse him!"

"Sir Walter Raleigh?"

"The same—I think," said the youth, as they retired within the castle.

The parly at the entrance-gate called forth the lord of the castle, who greeted the horseman with marked courtesy. Soon a repast, in which quantity, if not quality, denoted the larder of Kilbenny well provided, satisfied the appetite of the guest, and he was well supplied with food and wine by his venerable companion.

Edmund FitzGibbon, popularly called the White Knight, from the colour of his armour, was nearly

[1] Fox. Literally, "red dog."

[2] John.

allied to the noble houses of Kildare and Desmond. While professing amity with the English colonists, he was suspected of favouring the Earl of Desmond, who had thrown off his allegiance, and whose vast forfeited lands were the spoil of the adherents of Queen Elizabeth.

"Now, White Knight," said the guest, "having done justice to your good cheer, I must beseech thee to do justice to thyself. Where hast thou hid the traitor Desmond?"

"I! Sir Walter?" demanded the chieftain, in a tone of surprise. "I have had no communication with Desmond since I took the oath of fealty, so help me heaven!"

His companion looked at the speaker with an air of incredulity.

"Clan Gibbon," said the younger man, "I am loth to let slip any word hurtful to your age and rank; but if another said so my answer would be short. I cannot believe that you are ignorant that the arch-rebel is now in your territory."

"I am utterly ignorant of it, on my hopes of salvation!" replied the chief.

"How can that be, when we have sure tidings to the contrary? A party of my Lord Barry's soldiers stole upon the earl ere yesterday; they came upon him at supper, and he escaped without his mantle, so close were the pursuers. They actually tracked him into those very glens of yours, and I am now deputed by the Lord President to say that he holds you answerable, with life and lands, if you let him slip through your fingers. He bade me tell you he reckons

it most culpable in you to continue succour and shelter to our common foe, and one who has so often disquieted the reign of our Sovereign Lady the Queen; and he regards you, Clan Gibbon, bodily accountable for any fault in your men who may be accessory to the earl's escape, by reason of your neglect in pursuing him."

"That you have tidings of Desmond being on my territory, I do not gainsay, since you vouch it, Sir Walter Raleigh," replied the knight; "but I swear to you, on my allegiance, the fact is wholly unknown to me."

"I would prefer some better assurance than a tie which binds thee so loosely, Clan Gibbon," replied Raleigh, while the knight winced beneath his cutting words.

"Well, Raleigh," cried the veteran, "from you, at least, the taunt comes badly; as you must testify how I stood by you. Remember the challenge I bore to the seneschal of Imokilly, for the passage of arms between him and his captains, and Ormond with four of us. But, since the past is forgotten hear my vow. I vow to you, Raleigh, that ere to-morrow's sun sets, I shall deliver Desmond into thy hands—alive or dead—if he be in my country; or else I deliver myself to be dealt with as beseems fit to the Queen's Majesty. Here's my hand!"

"I accept the conditions, White Knight," rejoined Raleigh, clasping the extended palm; "and I am told to promise, if you succeed in capturing Desmond, a thousand pounds of gold are thine. To enable

thee to rise betimes in thy search, let us seek our chambers; so, good night!"

The host summoned an attendant with a lamp, and marshalled his guest to his couch. On returning to the banqueting-hall the White Knight was joined by the two men already mentioned.

"Where have you been, Gerald?" demanded the lord of the castle of the younger man.

"In my chamber," replied the youth.

"Wherefore not at the evening banquet, my son?"

"There was one present I could not trust myself to meet in amity," replied Gerald.

"You mean Sir Walter Raleigh?"

"Yes. What brought him hither?"

"Heavy tidings, an' they be true, which God forbid!" replied his sire. "He informs me the Earl of Desmond lurks somewhere in our country, and that the Lord President holds me accountable, in life and lands, for his capture."

"Then up with our banner, and down with our foes!" cried the young man with enthusiasm.

"What meanest thou, Gerald?" cried the White Knight; "you surely do not say this news is true."

"Indeed I do, father. The earl *is* now in our country!"

Then the poor old knight was in sore distress. He tore his grey hair in perfect frenzy, and gave way to a burst of grief.

"Father—dear father!" expostulated his son, "refrain from this unworthy lamentation. Surely it costs thee but little to give up the alliance with the English and succour our liege lord and cousin."

"Gerald!" groaned the afflicted knight, "you know not what I have vowed. Believing in the utter impossibility of the Saxon's story being true, I have vowed that ere to-morrow's sun sets, I shall deliver Desmond, living or dead, into Raleigh's hands, if he be in my country, or else deliver up myself."

"And what is your resolution?"

"To keep my vow!"

"Yes; but how? There is an alternative?"

"I mean to deliver up Desmond."

"Shame! Shame on thee, Clan Gibbon!" cried the youth, deeply moved. "Greatly art thou fallen. Time was, when different sentiments were thine, and promptly wouldst thou have spurned the notion of betraying the noble who put his trust, and sought safety with thee and thine."

"Alas! my circumstances permit no other course."

"Thank heaven, I shall be no party to so base an act," retorted the youth; "but, mayhap, thou never canst find where we have concealed the earl."

"What do I hear?" exclaimed the White Knight. "Oh, tell me, Gerald, where is he?"

"Never!" replied his son; "my tongue shall first be torn out."

"I charge thee, on thy duty, sir, to tell me!"

"My duty is to prevent eternal infamy falling on our noble name," replied the young man proudly.

"It is no disgrace to yield a rebel to justice."

"Ha! *rebel* and *yield*, are new terms in the mouth of the White Knight," laughed the youth scornfully. "Methinks the *justice* which our Lord of Desmond will receive from the English enemy consists of a stout

rope and a short shrift; and possibly the latter is dispensed with as papistical."

"I seek not to argue with you, sir," said the knight angrily; "nor care I what punishment an outlawed rebel shall receive. My duty is to deliver him up, and I demand of you his place of refuge."

"With me, at least, the secret is safe," replied Gerald; "I refuse to tell."

"Nay, this is past bearing!" cried the knight, losing temper. "Shawn," he called to the attendant in the antechamber, "summon two of the warders, and convey this obstinate boy to the prison in the western turret, and place him under bolt and bar until he gives me the information I need."

Shawn, accustomed to the despotic orders of his chief, promptly obeyed.

"I yield obedience to the chief," said Gerald, "in all that befits a gentleman; but I will be neither a betrayer nor an informer. Lead me to the dungeon."

The footsteps of the party, as they tramped across the courtyard, aroused Raleigh's curiosity. He asked one of the retainers the cause.

"The knight has sent his son to prison, I hear, for refusing to give up the Earl of Desmond," was the reply.

"He may be depended on, then, and I can venture to sleep," said Raleigh; and placing his arms within reach, in case of need, soon fell into a profound slumber.

Next morning the White Knight mustered his retainers in the courtyard. He briefly stated the necessity he was under of keeping his vow, and said, "I

promise, and hereby offer any of you who will conduct me to the hiding-place of the Earl of Desmond, the sum of fifty pounds, and the inheritance of a plough-land of fertile ground, to him and his heirs for ever."

All protested their readiness to help their chief, if in their power, but declared they were not aware of the earl being in their country.

Shawn, who overheard all that passed between the knight and his son, on the previous evening, desired to speak with the chief in private.

"After all that has passed," he said, "I suppose you are in earnest, and I am able to help you. I know where the earl is."

"Then, Shawn, I'll reward you."

"Follow on, then," replied Shawn. "We had better take horses, for 'tis some miles off."

The knight, with Shawn and six mounted troopers, set forth. The route lay over hills and valleys, until they were some miles from the castle.

"Do you see that small hole in the hill-side?" said Shawn, pointing to what looked like the entrance to a fox-earth.

"Yes," replied the White Knight.

"Within is the retreat of the earl."

At the mouth of the cave the band dismounted; then the chief bent over the aperture, and called, "Desmond, come forth! You are my prisoner!"

"Who calls?" replied a voice the knight knew was that of the earl.

"I am Clan Gibbon—the White Knight!"

"Then art thou doubly a traitor," said the earl, emerging from the cave; turning to the troopers, who

awed by the presence of so renowned a noble, had doffed their helmets, "for being Clan Gibbon, you are my own kinsman, and as White Knight, you and yours are my natural followers—as you are doubly a traitor—I call on my liegemen here to arrest *you*."

The knight's men looked from one to another, but no one stirred.

"My lord," said Shawn, drawing his sword, and seizing the earl, "that day is past. We are friends with Queen Elizabeth now, and you are her foe."

The rest then closed round the fugitive.

"Enough," cried the earl, "I yield. When my own kin desert me I have no care for freedom."

So saying, he mounted the charger of one of the troopers, while the man rode behind a comrade; and thus, ere sunset, the White Knight redeemed his vow.

For this service the White Knight received the thousand pounds promised by the Lord President.[3] The earl's trial on the Munster Circuit, took place at Cork, and as he was attainted on the 10th of March preceding, it was merely formal. Of course he was convicted, and the Lord President, from Shandon Castle, Cork, forwarded the earl to London. He, too, died in the Tower, and was buried alongside his cousin, the parliamentary earl.

During the presidency of Sir George Carew, the Presidential Court of the province of Munster was presided over by two able judges, Sir Nicholas Walshe, Chief Justice, and Gerald Comerford, Second Justice. I hope the legal profession was then better supplied

[3] Smith's "Cork," vol. ii. p. 77.

with practitioners than the medical profession, as appears from the following: The President, when ill, and in want of a physician, writing to the Queen, from Cork, on September 29, 1602, states:—"Ireland is destitute of learned men of English birth, and with Irish physicians—*knowing the good will they beare me*—if they were learned, I dare not venture."

Munster, under the presidency of Sir George Carew, knew little of law or order, save the conquering arm of English power. He was seldom out of the field of strife. He left Sir Charles Wilmot and Sir George Thornton, joint commissioners for the government of the province, on leaving Cork, in February, 1603, for England, learning the Queen was very unwell. He was not in time to find the Queen alive. She died before he reached Chester, but he was in time to assist in proclaiming James VI. of Scotland as the King of England, by whom he was created Lord Totnes.

During Carew's absence from Munster, Sir George Thornton, one of the two commissioners of Munster, applied to Thomas Sarsfield, then mayor, to have the new king proclaimed. The mayor, who from some cause or other had not made up his mind to proclaim James, replied, "The Charter of Cork allowed his taking time to consider of it." Sir George replied "that the King, who had a just right to the Crown, had been proclaimed in Dublin, and that a delay would be taken ill."

To this the mayor shortly rejoined that "Perkin Warbeck had also been proclaimed in Dublin; and that much damage had come of their precipitation." The Chief Justice of Munster, Saxey, who was present,

said "they should be committed if they refused." This seems to have excited the resentment of the Corporation, for William Mead, the recorder, replied, "There was no one there with authority to commit them." The Corporation of Cork had resolved not to do things in a hurry. They retired to the court-house, and left Sir George Thornton and his party out in the cold.

They remained pacing up and down the street outside the court-house for an hour, when, growing impatient, Sir George sent to the mayor, to know "if they had made up their mind what to do?"

The answer was "No."

Another hour elapsed, and again the commissioner sent to hear the decision of the Corporation. The Recorder, not very civilly, told the messenger, "he could have no answer until next day, if even then." Whereon Sir George and his suite went in person, and the Recorder gave them scant courtesy. Sir Richard Boyle, afterwards the great Earl of Cork, was then Clerk of the Presidential Court of Munster, and he reproved the learned Recorder for his conduct, desiring him "not to break out in so unreasonable and choleric a fashion."

Mead at once said, "Though I do not break out, there are thousands ready to do so."

Sir George instantly requested the Recorder "to explain what he meant by those words."

"Very well," replied Mead, "but the city must have three or four days time to consult about the ceremony."

The delay was spent in preparing for civil war.

For some time the city was in open rebellion, but

when matters were looking serious, the Mayor and Corporation, knowing the very decided character of the then Viceroy, Lord Mountjoy, wrote by way of excuse to that nobleman, to say, "they had received the King's proclamation only on the 11th of April, and put off the ceremony until the 16th, in order that it might be done with more solemnity." The Commissioners of Munster, we may feel assured, gave the Viceroy a very different account of the state of affairs.

Cork was not the only city on the Munster Circuit that became reluctant to proclaim the King of Scots King of Ireland; Waterford was also in revolt, so that the Lord Deputy, judging the situation of affairs in the provinces required his immediate present attention, proceeded with a numerous army into Munster. On the 5th of May, 1603, Lord Mountjoy summoned the Mayor of Waterford to open the gates of that city and receive him and his army. The spirit of rebellion immediately appeared. The gate was shut against the Lord Deputy and his troops, and the citizens pleaded "that by a charter of King John, they were exempted from quartering soldiers."

While the parties were thus engaged, we learn from Dr. Ryland's "History of Waterford," two ecclesiastics, Dr. White and a young Dominican friar, came into the camp. They were habited in the dress of their order. When they entered the Lord Deputy's tent, Dr. White commenced a violent religious controversy, "all of which," we are told, "his lordship did most learnedly confute." He then severely reprehended the conduct of the citizens, *threatened to draw King James's sword, and cut the charter of King John to*

pieces," and declared his intention, "if they persisted in their obstinacy, to level their city, and strew it with salt." This resolute language was effectual. The citizens, awed into submission, opened the gates, and the Viceroy and his troops entered. The citizens took the oath of allegiance, and, in order that they should keep it, a strong garrison was placed in the city.

The Lord Deputy next visited Cork, prepared to punish any resistance to his authority. The mayor was apprised of his coming, and it was debated if he should be allowed to enter. There were great numbers of the citizens of the capital of Munster who were opposed to it; but wiser counsels prevailed, and the Viceroy entered Cork on the 11th of May, 1603. Ploughshares were placed by the citizens along his route through the city, to intimate that the destruction of the growing crops by the soldiers had caused so many ploughs to be idle. This gave the Lord Deputy a solution of the cause for popular discontent.

Several of those who took part in the late rebellion were ordered to be tried. A grand jury, consisting of only fifteen members, found bills against Mead the recorder, Mr. Gould, and others. They were tried before the two Commissioners, the Chief Justice, and William Saxey and Gerald Comerford, justices. Mead, who is described as having been the ringleader of the revolt, was acquitted, though it is hard to learn on what grounds. Gould pleaded in justification, that "goods he sold the wife of the late President—Sir George Carew—and for which he paid good coin, was paid for by Lady Carew's steward in mixed money." Whereon the Cork jury, regarding such conduct as

good grounds for rebellion in the honest trader, acquitted him.

The Recorder thought it prudent, after his discharge from custody, to visit the Continent. When at Naples he wrote a treasonable book called "Advice to the Catholics of Munster," a copy of which is preserved in the Bodleian Library, at Oxford. He did not return to Ireland, but died at Naples.[4]

[4] Gibson's "History of Cork," vol. ii. p. 27.

CHAPTER III.

Successive Presidents.—Incidents in the Life of the First Earl of Cork.—Plot and Counter-plot.—A disappointed host.—Cromwell's Jests.—Fate of the Regicides.—A Charge to a Grand Jury.

Sir Henry Becher was appointed Lord President of Munster in 1604. He comes next after Sir George Carew in the list of Presidents—Sir George Thornton and Sir Charles Wilmot being only Commissioners. I do not find any account of circuits during the six years Sir Henry Becher held the office of President. He died in 1610, and was succeeded by Lord Danvers, who had been a commander of cavalry to Lord Mountjoy. Several changes of Presidents quickly followed each other. Sir Oliver St. John was President of Munster in 1611. He nominated Sir Richard Moryson Vice-President, and was replaced in 1616 by the Earl of Thomond. This nobleman dying the same year, Sir Edward Villiers became Lord President.

The Clerk of the Council of Munster, from 1602, for several years, was Richard Boyle, the celebrated first Earl of Cork. The salary was only 20*l.* per annum, but the fees of office were very remunerative. Together with filling the office of Clerk of the Council, Boyle was also a magistrate for the whole province

of Munster, and was constantly in attendance upon the Lord President, who employed him in various duties requiring ability and despatch. The following incident in his life, related by himself, is an instance :—

"As Clerk of the Council, I attended the Lord President in all his employments, and waited on him during all the siege of Kinsale, and was employed by his Lordship to her Majesty, with the news of that happy victory, in which employment I made a speedy expedition to the Court, for I left my Lord President at Shandon Castle, near Cork, on the Monday morning, near two o'clock, and next day being Tuesday, I delivered my packet, and supped with Sir Robert Cecil, being then principal Secretary of State, at his house in the Strand; who, after supper, held me in discourse until two o'clock in the morning, and by seven that morning called upon me to attend him to the Court, where he presented me to her Majesty, in her bed-chamber, who remembered me, calling me by my name, and giving me her hand to kiss, and telling me that she was glad that I was the happy man to bring the first news of that glorious victory. And after her Majesty had interrogated me upon sundry questions, very punctually; and that therein I had given her full satisfaction in every particular, she again gave me her hand to kiss, and recommended my despatch for Ireland, and so dismissed me with grace and favour."[1]

When the ill-fated Lord Wentworth, afterwards

[1] "Autobiography of the Earl of Cork."

Lord Strafford, became Lord Deputy of Ireland in January, 1631, Sir William St. Leger was President of Munster. He was appointed President of Munster in 1627. During the civil strife which desolated Ireland from 1641 to 1650, the circuits of the judges seem to have been suspended. The unhappy contests which prevailed during these disastrous years belong to the general history of the kingdom, and I have no desire to introduce any of the blood-stained details into my peaceful narrative of events upon the Munster circuit.

St. Leger, the Lord President of Munster, died at Doneraile on the 2nd of July, 1642. It is supposed the dissensions between the King and the Parliament so affected his health as to have hastened his dissolution. The Lord Inchiquin, who had married St. Leger's daughter, was appointed by the Lords' Justices to the vacant office of President of Munster. During his presidency there was, according to the Rev. Mr. Gibson, historian of Cork, a daring and decided measure adopted for turning the native Irish out of Cork, Youghal, and Kinsale, and to justify this, a plot was said to have been discovered.

A tract, published in London in 1644, entitled "A Plot Discovered in Ireland, and prevented without the Shedding of Blood," bears the name of Jane Coe. The following extracts show the terrible rancorous spirit of these fearful times :—"I know you have heard how my Lord Inchiquin hath put the Irish out of Cork in July last, and not without much cause, for there was a most horrid, damnable, and bloody plot of conspiracy invented and practised by

the Popish priests and bloodthirsty Jesuits, and the same of a sudden to be put in execution by the townsmen of Cork, who were confederates with that bloody arch-rebel, the Lord of Muskerry."

The tract describes the nature of the plot, the discovery, and execution of the priests, and thus continues: — "For the rest of the townsmen they had engaged themselves in this inhuman conspiracy, they were so many in number, and being at least six to one of our English, they could not so well be taken, or apprehended without great danger and much effusion of blood on both sides. But the Governor of Cork, and the rest of the chief commanders, for the better prevention of so great a danger, devised a remarkable counter-plot (for the taking and apprehending the town conspirators rather by policy than by violence), and for that purpose caused Captain Muschamp, Governor of the Great Fort of Cork, to feign to be drunk. And so, as it were, in a merry humour, invited himself to Master Major (Mayor)[2] his house to dinner; and, accordingly he dined there, and, after the Irish fashion, was kindly entertained, and divers cups passed around of sack, claret, and usquebaugh, in friendly manner, to welcome him, and make him the more merrily disposed. And sitting at dinner they discourse of divers matters concerning the present distractions of these times, and divers propositions were made, and every one gave their opinions according to their own apprehensions; and, amongst

[2] Sir Robert Coppinger, a Roman Catholic, and staunch adherent of the House of Stuart, was then Mayor.

other discourses, Captain Muschamp, seeming to be in merry humour, did speak these, or such like words:—

"'Well, Master Major, if that it should please God that the Parliament ships were in the harbour of Cork, if you and the rest would not take the covenant to be true to the King *and Parliament*, I protest I would, with the great ordnance in the fort, beat down all the houses in Cork about your ears.'

"With that the Major and the rest of the company rose up in a great fury, and said 'that he had spoken treason, and he should answer it;' and so they brought him before the Governor, and repeated the words he had spoken, desiring that he might be proceeded against according to law, in such cases provided.

"Whereupon the Governor gave many thanks to Master Major in showing himself so good a subject in discovering such a treason as that was, saying, 'it was time to look about, as when we shall have the chief officers that are put in trust with matters of such concernment as he was, being Governor of the King's forts, should speak such treasonable words. And, therefore, Master Major, you shall have my best assistance, and such punishment shall be inflicted upon him as martial law will permit.'

"So the Major, for the present, departed, and the martial law was called. And the Council of War met, and sat upon his trial. The business examined, the witnesses produced, the words were proved against him, and being found guilty he was condemned by

the Council of War, and had his sentence given—to be hanged next day.

"And at the time appointed, the sheriffs and the greatest part of the city came to see the execution; and the prisoner was brought out of the city, well guarded, with a company of musqueteers; and when they perceived that the chiefest and most dangerous men of the city were come out of the gates, the word was given, and the prisoner, Captain Muschamp, being set at liberty, did command his officers to lay hold on all the chiefest of the citizens, and carry them prisoners to the fort whereof he was captain and governor. And as soon as they were taken, the chiefest aldermen and others in the city were taken, and kept prisoners as hostages to secure the English as well within as without the gates, which were at that instant shut up, and the drawbridge taken up, so that none could come in or go out, till all the matters were pacified.

"And in the meantime there was a proclamation made, that if the Irish resisted the English, the soldiers should shoot them; and if any English were killed in that broil the chiefest of the city should be hanged over their walls; which proclamation did so terrify the Irish that they were all glad to be quiet, and so there was no great hurt done, which was much to be admired, that a matter of so dangerous a consequence should be effected without any further trouble, and the projectors thereof highly to be commended in devising such a stratagem of mercy in time of such troubles and rebellion to prevent the shedding of guileless blood."

We learn how suddenly the citizens were deprived of house and home by this occurrence, from the account of his travels by Monsieur Boullaye Le Gouz, a French gentleman, who visited Cork after the expulsion. He had befriended in Paris a Cork young gentleman named Neuel, probably Neville, still a respectable name in Cork, and in return for his kindness, as he mentioned to Mr. Neville his intended journey to Ireland, the Irishman hospitably asked him to travel with him, as he was homeward bound, and, when in Cork, he should be the guest of Mr. Neville's father. M. Le Gouz consented to this proposal, and, in due time, they reached the city on the Lee. But 1644 found the Catholics repulsed from the city, and strangers placed in their homes. Young Neville, unaware of the circumstance, reached the house which his family considered theirs. To his summons and inquiry a strange servant replied, "he knew no such person as Mr. Neville." Young Neville had an interview with the then master. He said he had obtained a grant of the house from the Governor. It was then unoccupied, and he heard that one Mr. Neville formerly resided there. This was cold comfort for the youth, who hoped to give his French guest an Irish welcome. With a sad and sorrowful heart he sought the house of a kinsman, who, luckily, had not left the city to see Captain Muschamp hanged. He received young Neville and his friend most kindly, and the young man joined his father and family in Spain.

The comments of the reverend historian of Cork

on this transaction are not very complimentary to the participators :—

"The affair described by Jane Coe was, no doubt, very clever, but very disgraceful, especially to men of authority. This anti-Popish plot was worthy of a pot-house. The governor of an important fort feigns drunkenness, staggers, uninvited, to the mayor's house, broaches treason, is arrested, has a sham trial—his judge being in the plot—and is condemned to be executed. The principal inhabitants go out to see him hanged, and, at a given signal, are seized and turned out of the city, to wander as vagabonds up and down the country." [3] Lord Inchiquin, the instigator of this scheme, was confirmed in the office of President by the English Parliament. But the records of the Munster circuit are a blank for some years. The civil authority ceased in Cork on the 28th of July, 1644, and was not renewed till the year 1655, when John Hodder was elected Mayor.

Cromwell, during his sojourn in Ireland, went the Munster circuit. He had his own method of general gaol delivery, and, from the way he treated the ill-fated inhabitants of Drogheda, few towns offered resistance to his entrance—of these, however, Waterford was one. He could not take the *urbs intacta* for a long period. As few witty sayings of the grim-visaged Protector have reached us, I give one he made while on the Munster circuit.

Being in want of ordnance, he ordered the church bells of Cork to be cast into siege-guns. Some of

[3] Gibson's "History of Cork," vol. ii. p. 82.

his fanatical officers remonstrated with him upon the sacrilegious use he was making of these appurtenances to places devoted to the worship of the Most High. Cromwell replied, "Since gunpowder was invented by a monk, surely it is not wrong to promote church bells into *canons*."

Another specimen of Cromwell's humour is this. Mr. Magner, of Castle-Magner, near Mallow, went to Cork to pay his respects to the Lord Protector, possibly with a view to remove impressions of the hostility of Mr. Magner to the Puritans. Cromwell was told he was a Malignant, and had given much trouble to the Parliamentary adherents during the civil war. Cromwell received him with apparent friendliness—expressed the pleasure he felt at Mr. Magner's visit, and on his taking leave Cromwell entrusted him with a letter for Colonel Phair, then commanding the Parliamentary forces in Munster.

Mr. Magner, possibly distrusting the cordial reception he received from Cromwell, thought it prudent to ascertain the contents of the letter he was to deliver to Colonel Phair. His sagacity was rewarded by discovering it was a warrant for his death, couched in the laconic words, "*Execute the Bearer.*"

Richard Magner then and there resolved he would not be the victim of Oliver's vengeance, but he would allow some one else to carry the fatal order. Now, there was in command of the garrison of Mallow an officer who had incurred Magner's enmity by seizing his flocks and damaging his property. He therefore called upon this officer, and, handing him the letter, carefully resealed, said, "the Lieutenant-

General requested it should be delivered to Colonel Phair in person, without delay."

Proud of his mission, the officer prepared to deliver it at once, and Magner went to his home. When Colonel Phair read the letter, knowing the character of the stern Roundhead who brought it, and conscious there was a mistake somewhere, he hesitated to carry out the contents until he communicated with Cromwell. This saved the officer's life. Cromwell then knew he had been out-generaled; and we may be sure Mr. Richard Magner took good care to give him no other opportunity of ordering his execution.

Among those adherents of Cromwell who obtained grants of land in Munster, was Sir William Penn. He first got the castle of Macroom, and resided there in 1656, which caused the belief that his celebrated son, William Penn, of Quaker celebrity, was born in Macroom Castle; but he was born in London on the 11th of October, 1644—twelve years before the admiral, his father, went to Macroom.

When Cromwell was appointing commissioners for civil affairs in Ireland, he appointed Miles Corbet—one of the regicides who sat upon the trial of King Charles I.—Commissioner for Munster. This barrister was afterwards Chief Baron of the Irish Court of Exchequer, and obtained a grant of the Condon property on the river Funcheon, which was divided between him and the Lord Deputy Fleetwood. This property was then called Cloghleagh, from the stately castle of the Condons, built on a lofty ledge of rock, rising from the brink of the river, and now forming a striking and picturesque feature in Moor Park, the demesne of the

Earl of Mountcashel. The Lord Deputy wished to change the Irish name of Cloghleagh for Kilworth, a place in Leicestershire, near which he was born. Corbet would have retained the old name; but being the less powerful of the grantees, had to yield, and thus the Leicestershire name is given to the Irish post-town. Kilworth, we shall see later on, produced another Irish Chief Baron, a very much abler lawyer than Chief Baron Corbet—the late Right Honourable David R. Pigot, for many years one of the leaders and ornaments of the Munster circuit.

Through Cromwell's influence, Ireton, his son-in-law, and one of his ablest generals, became Lord President of Munster. Ireton appointed Cook, who had been, unhappily for himself, solicitor-general during the trial of King Charles I., Judge of the Provincial Court. He also had grants of land in the county of Cork, whence Castle Cook—long the seat of the respectable county of Cork family of Cook-Collis—bears its name.

This provincial judge was not allowed to end his days tranquilly. Shortly after the restoration of Charles II., diligent search was made for all the surviving regicides, and Cook was arrested. In those days, when men's tempers were boiling over with loyalty for the son of the martyred king, conviction and execution rapidly followed on trial, and the Munster Provincial Court lost its judge by his execution. Ireton was dead, and his judge, Cook, was executed, and Lord Orrery, son of the celebrated Earl of Cork, was Lord President of Munster after the restoration. Among the papers of Sir John Henry Butler, of the Ormond family, I

find the following charge to the grand jury, showing that law and order was being re-established :—

"Gentlemen,—In obedience to this command, and in pursuance of the trust reposed in us by this commission, which you have heard, we are thus publicly and openly assembled here to-day—a dav which, to us, is a calm after a tempest; a sunshine after a fog; a time of peace and tranquillity after the horror and confusion of an intestine war, and the distraction of an unsettled Commonwealth.

"It were but the loss of much time and labour, to discant on the present state of things, or to cast into the balance the advantages and emoluments of a peaceable and orderly Government, with the spoils, rapines, and innumerable calamities of a rebellious and domestic war. You all that are now partakers of the benefit of the one, can give a more ample and judicious account, having a more distinct remembrance, and some of you a woeful experience of the effects of the other. Religion, the mother of peace; plenty, the daughter; and law, the guardian; how often, how long have they been obscured, estranged, and ravished from us; and, in their stead, heresy had misguided us, famine diseased us, and the lawless arbitrary humours of evil men undone us! But now, through the great goodness of God, and the prudent care of him that governs us, we begin to recover from our miseries, and return to our pristine establishment. Religion is preserved to us in so many shapes, and preached to us by so many mouths of all sects, that, unless we be blind and deaf, we cannot miss it. Plenty was never more generally, more sensibly, known to this nation. The windows of heaven

are largely opened, and the fertile womb of the earth hath prodigally delivered her burthen to our comfort and refreshment; inasmuch that I might well say, there is a cornucopia among you."

Having detailed the usual bills to go before the grand jury, he referred to the following, which, being now nearly all obsolete, may be considered curious. I accordingly enumerate them. They show the care and regard paid to the morality of the people, which, probably, was enjoined by Oliver Cromwell and the Puritans. The grand jury were to inquire as to parties for—

"1. Profaning the Sabbath by keeping fairs or markets, by manual labour, by plays, haunting taverns and ale-houses.

"2. Cursers and common swearers.

"3. Common turbulent drunkards.

"4. Common adulterers.

"5. Fornicators.

"6. Keepers of common gaming-houses, and common gamesters.

"7. Alehouse keepers that keep disorder in their houses.

"8. Plowing by the tail.

"9. Pulling the wool of living sheep.

"10. Burning of corn in the straw.

"11. Selling of wine, ale, or any other liquor, in any town franchised, by measure not sealed.

"12. Cosherers and idle wanderers."

The belief in witchcraft caused many cases to be tried in England and Scotland. The following shows the legal annals of Ireland are not free from these odious accusations.

CHAPTER IV.

Trial of Florence Newton for Witchcraft.

THE case of Florence Newton, tried for Witchcraft, is published in "Sudduciasmus Triumphatics, or, a full and plain Evidence concerning Witches and Apparitions," by Joseph Glanvill, Chaplain to King Charles II., F.R.S. The Report of the Trial was communicated to the Rev. J. Glanvill by Valentine Greatrecks, who obtained the notes of the Judge, and who was examined at the trial.

In my "Lives of the Lord Chancellors of Ireland" I give an account of the proceedings against Dame Alice Kyteler for Witchcraft in Kilkenny, while Roger Utlagh was Chancellor. This was in the reign of King Edward II., A.D., 1330. Yet, after a lapse of three centuries, the belief in witchcraft was still flourishing, and, in the Gaol of Cork, for trial at the Autumn Assizes of 1661, during the reign of the Merry Monarch, lay an aged crone, named Florence Newton, charged with bewitching one Mary Longdon, and grievously tormenting her, and bewitching one David Jones, whereby he languished and died.

The prisoner, a miserable old creature, was brought for trial to the Cork Assizes on the 11th September, 1661. The presiding Judge was Sir William Aston.

His patent as one of the Justices of the Court of King's Bench in Ireland, records "that the King had appointed him, in consideration of his singular honesty, ability, and integrity, his early and ready appearance for the King, and loyalty to his Majesty." [1]

The case excited no ordinary interest, for Sir William Domville, then Attorney-General for Ireland, attended, and conducted the prosecution. The prisoner, having pleaded "Not Guilty," and the case being stated to the jury, Mary Longdon, the alleged victim, being sworn, and desired to look on the prisoner "became very pallid, and was very fearful to look towards her, but at last she did, and identified her as Florence Newton, whom she had known for three or four years."

In answer to the questions put, she stated, "that at Christmas the prisoner came to her at the house of John Pyne, in Youghal, where witness was a servant, and the prisoner asked her for a piece of beef out of the powdering (salting) tub." That when the witness replied, "she could not give away her master's beef," the prisoner became very angry, and said,—

"Thou had'st as good have given it me," and went away grumbling.

About a week after, when witness was going for water, with a pail on her head, she met the prisoner, who threw the pail off her head, and violently kissed her, and said, "Mary, I pray thee let thee and me be friends; for I bear thee no ill-will, and I pray thee do thou bear me none." Then witness went home, and,

[1] Smyth's "Law Officers of Ireland," 106.

within a few days, she saw a woman, with a veil over her face, stand by her bed, together with a little old man in silk clothes, who witness took to be a spirit. He drew the veil from the face of the woman, and then witness knew it was the prisoner.

That the spirit spoke to the witness, and "would have her follow his advice, and she would have all things after her own heart;" but she replied, "she would have nothing to say to him, for her trust was in the Lord."

That within a month after the prisoner had kissed her, she, witness, became subject to fits or trances, of such violence, that three or four men could not hold her. These fits were accompanied by vomiting needles, pins, horse-nails, stubbs, wool, and straw. A little before the commencement of these fits small stones fell upon her head, shoulders, and arms, and these stones would follow her as she went up and down, and in different parts of the room, and, after hitting her, they fell on the ground and vanished. That she, and others, could see them hit her, and then fall on the ground, and could never take them, only some few which she, and her master, caught in their hands. Amongst which was one that had a hole in it. This she tied, as she was advised, with a leather thong to her purse; but it vanished immediately, though the leather remained tied in a fast knot.

That in her fits she often saw the prisoner, and cried out against her for tormenting the witness, for she would stick pins in her arms, and some so fast that a man must pluck three or four times to get out the pins. Sometimes the witness would be removed

out of her bed into another room, sometimes carried to the top of the house, laid on a board between two collar beams, sometimes put into a chest, sometimes under a parcel of wool, sometimes between two feather beds, sometimes between the bed and the mat in her master's chamber, this took place in the daytime.

On being asked, "how she knew she was thus carried about, and disposed of, seeing, in her fits, she was in such violent distraction, she answered, "She never knew where she was till they of the family, and the neighbours with them, would be taking her out of the places whither she was so removed."

On being asked "how she could think it was Florence Newton that did her this prejudice?" witness replied, "because the prisoner threatened her, and because, after the prisoner kissed her, she fell into three fits, and that she both saw and felt the prisoner tormenting her, and that, when the people of the family, by advice of the neighbours, and consent of the Mayor, sent for Florence Newton to come to the witness, and when she came witness was always worse, and her fits more violent than at other times."

That, when the prisoner was committed to gaol at Youghal, the witness was not troubled till a little after the prisoner was removed to Cork, and then witness was unwell, as before. And the Mayor of Youghal then inquired from Cork whether the prisoner was bolted (as witness was told), and, finding she was not, orders were issued to have her bolts put on her, which, being done, caused witness to become well again, and so she continued ever since.

Being asked "if she had these fits before Florence

Newton kissed her," she said, "Never; but believed the kiss bewitched her, and she heard, from Nicholas Pyne and others, that Florence Newton confessed as much."

This extraordinary evidence being concluded, a scene, quite in accordance with the evidence, and which must have been regarded as strongly corroborative—ensued. I give it in the words of the report:—

"This Mary Longdon, having closed up her evidence, Florence Newton peeped at her, as it were, betwixt the heads of the bystanders that intercepted betwixt her and the said Mary, and, lifting up both her hands together, as they were manacled, cast them in an angry, violent manner (as was seen and observed by W. Aston) towards the said Mary, as if she intended to strike her if she could have reached her, and said, 'Now she is down!'"

Upon which the maid fell suddenly down to the ground like a stone, and fell into the most violent fit, that all the people that could come to lay hands on her could scarce hold her, she biting her own arms, and shrieking out in a most hideous manner, to the amazement of the beholders, and continuing so for about a quarter of an hour (the prisoner sitting by herself all that while, pinching her own hands and arms, as was seen by some that observed her). The maid was ordered to be carried out of Court, and taken to a neighbouring house. Several persons soon brought in word the maid was in a vomiting fit, and they brought in several crooked pins, and straw, and wool, in a white foam, like spittle, in great proportions. Whereupon the Court, having taken notice what the maid

had said, "she had been very well when the said Florence was in bolts, and ill again when out of them till they were put on her," demanded of the jaylor, "if she were in bolts or no?" "I think," he said, "she was not, but only manacled." Upon which order was given to put on her bolts, and, upon putting them on, she cried out, "she was killed; she was undone, she was spoil'd. Why do you torment me?" and so continued complaining grievously.

Shortly word was brought in the maid was well, on which the prisoner uttered these words, "She is not well yet." On being asked how she knew the maid was not well yet, she denied having said those words, and being told, "many in Court heard her," she replied, "If she did, she did not know what she said, being old and disquieted, and distracted with her sufferings."

The maid, being sufficiently recovered, was sent home to Youghal.

The maid's fit in Court, with the circumstances already stated, and the words used by the prisoner, were then urged as proof of the devilish practices of the prisoner on trial.

Nicholas Stout, who had filled the offices of bailiff and Mayor of Youghal, was examined by the Attorney-General. He deposed that he had often tried the prisoner; and, having heard that witches could not say the Lord's Prayer, asked the prisoner to do so, and found she could not.

Here the prisoner cried out "she could," and, leave being given to her, she commenced; and, four times after repeating "Give us this day our daily bread,"

she continually said, "as we forgive them," leaving out the words "and forgive us our trespasses," upon which the Court appointed a person near her to teach her the words thus left out. But she either could not, or would not, say them.

John Pyne, a bailiff of Youghal, in whose service Mary Longdon then was, being examined, most fully corroborated her story, to near the minutest particular. Indeed, now reading over his testimony,—describing the stones thrown at her, hitting her, then falling on the ground, and vanishing; catching one with a hole, which the maid tied to her purse, and which vanished, leaving the string tied; the fits, and her removal to the warm places she deposed to; her vomiting wool, pins, horse-nails, straw, and needles, with white foam or spittle,—had the time been less sceptical, we might imagine a preconcerted conspiracy against the alleged witch.

Nicholas Pyne, also a native of Youghal, was examined. He swore that the second night after that the witch was in prison, 24th March, he and Joseph Thompson, Roger Hawkins, and others, went and told her, "it was the general opinion of the town she had bewitched the maid, and desired her to say if she bewitched her or no." She said, "she had not bewitched her, but it might be she had overlooked her, and that there was a great difference betwixt *bewitching* and *overlooking*, and that she could not have done her any harm if she had not bewitched her, and that therefore she had kiss'd her." And she said "What mischief she thought of at that time she kissed her, that would fall upon her." The prisoner would not confess she

had wronged the maid, and fell upon her knees and prayed "God to forgive her for wronging the poor wench." They wished the maid might not be wholly destroyed by her, to which the prisoner replied, "It must be another that must help her, and not they that did the harm," and then she said, "there were others, as Goody Halfpenny and Goody Dod in town, that could do these things as well as she,[2] and it might be one of them that did the maid wrong."

That towards evening the door of the prison shook, and the prisoner rose hastily, and asked, "What makest thou here this hour of the night?" and there was a noise, as if somebody with bolts and chains was running up and down the room. They asked the prisoner "what it was she spoke to, and what made the noise?" She said, "she saw nothing, neither did she speak, or, if she did, she knew not." But next day she confessed "it was a spirit, and her familiar, in the shape of a greyhound."

Witness further stated he and Mr. E. Perry, for trial of her, took a tile off the prison, next to the place where the witch lay,[3] and carried it to the house where the maid lived, then put it into the fire till it was red hot, and then dropped some of the maid's water upon it, and the witch was then grievously tormented; and when the water was removed, she was well again." (This test of witchcraft was suggested to the witness

[2] There is, I believe, in Italy, a dread of *Il jettatura*—the Evil Eye—and what is called Fairy Stroke, or overlooking, is yet prevalent in Ireland.

[3] All the witnesses speak of the prisoner as the witch, that being the very point for determination by the jury.

at Cashel, by one William Lap). This witness also corroborated the former evidence as to the stones, fits, vomitings, and removals of the maid, while in the fits.

Edward Perry, Bailiff of Youghal, and subsequently Mayor of Youghal, deposed that he and Mr. Greatraix,[4] with Mr. Blackwall, resolved to try their test on the prisoner, so they sent for the witch, and set her on a stool, and a shoemaker, with a strong awl, tried to stick it in the stool, and could not till the third time. They then bade her come off the stool; but she said "she was very weary, and could not stir." Then two of them pulled her off, and the shoemaker went to pull out his awl, and it dropped into his hand with half an inch broken off the blade. They all looked to have found where it had been stuck, but could find no trace of any entry. Then they took another awl, and put it into the maid's hand, and then violently struck at the witch's hand with it, but could not pierce it through, the awl was so bent,

[4] Valentine Greatraks—called the Stroker—from curing diseases by stroking the parts affected with his hands, was born in the Castle of Affane on the 14th February, 1628. He evidently anticipated our modern mesmerism, and appears to have had very considerable success. His cures were attested by many contemporaries. The celebrated Robert Boyle and Mr. Cudworth attest his success. He never tried his curative powers for any reward; but, supposing his power came from God, freely gave it for His sake. His remedial power, as in case of mesmerism, seems to have depended much upon the subject of his passes or strokes. They were, with some, efficacious at once, with others slow; and, with some, ineffectual.

none of them could straighten it. Then Mr. Blackwall took a lance, and lanced one of her hands deeply, but no blood flowed. He then tried the other, and then both bled. Witness also deposed, that when in prison, the witch denied "she ever said her familiar was in the shape of a greyhound, or that she had bewitched the maid; but confessed she had overlooked her when she kissed her."[5]

Mr. Wood, Independent Minister, appointed to Youghal under the Commonwealth, was then examined. He accompanied the maid's brother, and saw her in the fits, heard her saying the prisoner had bewitched her, and when he caused the prisoner to be secretly brought into the room, the torments of the maid increased, and diminished when the prisoner was also privately removed. When the witch was outside the chamber the maid would desire to go to prayers, and he found good affections in her in time of prayer; but, when the witch was brought in, though never so privately, the maid would become senseless, and like to be strangled.

Richard Mayer, Mayor of Youghal, then deposed, that about the 24th March last, he sent for the prisoner, and she at first denied about the maid, and accused Goodwife Halfpenny, and Goodwife Dod for tormenting Mary Longdon; but, when he caused a boat to be prepared, and intimated his intention to

[5] My pious, learned, and ever kind friend, Rev. Canon Hayman, Rector of Douglas, County Cork, from whose annotated transcript I am condensing this strange trial, very appropriately suggests "Could this superstition have arisen from Judas betraying our Redeemer with a kiss?"

subject the three suspected women to the test of the water experiment,[6] the prisoner confessed "she had overlooked her, and done her wrong with a kiss, for which she was heartily sorry, and desired God to forgive her." That when the witch was present the maid's fits increased, and she was better when the prisoner was removed. He also confirmed the statement about the effects of the bolts, and said three aldermen of Youghal had children kissed by the prisoner, and thereupon they speedily died.

The report then proceeds:—

Hitherto we have heard the most undeniable evidence touching Florence Newton's witchcraft—upon Mary Longdon—for which she was committed to Youghal Prison, March 24th, 1661. The April following she bewitched one David Jones to death, by kissing his hand through the bars of the prison door.

The indictment was also tried at Cork, at the same Assizes, and sworn to as follows:—

Elenor Jones, relict of said David Jones, swore, that in April last her husband, having been out all night, came home early in the morning, and said to her, "Where dost think I have been all night. I, and Frank Besely, have been standing continually over

[6] The ordeal by water, a well-known test of witchcraft, was thus used. The suspected witch was cross-bound; the thumb of the right hand tied to the great toe of the left foot, and the left thumb to the right toe. She was then immersed in deep water. As the belief was then water would not receive any guilty person, if she floated she was taken out and burned or hanged; if she sank, she was taken out, perhaps alive, but most probably drowned.

the witch." Then the witness said, "Why, what hurt is that?" "Hurt," quoth he, "marry, I doubt it's never a job the better for me, for she hath kissed my hand, and I have had a great pain in that arm, and I verily believe she hath bewitched me." To which witness answered, "The Lord forbid." Then, all that night, and continually from that time, he was restless, complaining of great pain in his arm, and thence to his heart, crying out against Florence Newton, and, about fourteen days after he died.

Francis Besely deposed that, meeting the deceased David Jones, they counselled about Florence Newton, then a prisoner in the Youghal Prison, of whom it was reported she had several familiars visiting her in different shapes, and they agreed to watch one night, to see if any cats, or other creatures, resorted to her through the grate. They went, and Jones said to the prisoner, "he heard she could not repeat the Lord's Prayer." He tried to teach her, but she could not say it. When they withdrew from her she called "David, come hither." He went, though witness tried to keep him away. The prisoner then tried to repeat the Lord's Prayer, but never could say, "Forgive us our trespasses;" so David again taught her, which she seemed to take thankfully, and told him "she had a great mind to kiss him, but that the grate hindered, but desired she might kiss his hand." Whereupon, he gave her his hand through the grate, and she kissed it. Towards break of day they left, and soon after witness heard Jones was ill. The witness visited Jones, found him in great pain, and he complained "the old hag had bewitched him, and

that he laid his death at her door." After fourteen days languishing, David Jones died. This closes the account I have condensed. Though we are not informed of the verdict, we may assume it was to find Florence Newton a witch, and to punish her accordingly—either by hanging or burning, as was usual in such like cases.

CHAPTER V.

Jacobite and Williamite Wars.—Sagacity of Sir Richard Cox, Consulting Counsel in 1715.—Convivial Habits of the Irish Bar.—Apartments in Hell.—Sir Toby Butler.—Feeing the Solicitor-General.—A Popish Discoverer baffled.

THE judges found great difficulty in restraining the violence of the nobility. Donough, Earl of Clancarty, was entrusted by Lord Tyrconnell, Lord Lieutenant of Ireland—while James II. was king—with the command of the cavalry of Munster. Finding himself without horses and arms for his men, he resolved to procure both. He attacked Castlemartyr, the seat of Colonel Boyle (now the splendid mansion of the Earl of Shannon), and took horses and arms to mount and equip 150 troopers. He was also successful in obtaining a large supply in Cork, and in the towns of the county. He spared neither rich nor poor. At Mallow, he took the horse of a butcher, who complained to the judge of assize. The judge ordered the earl to make restitution. The noble lord promised compliance, and sent his troopers to perform it; but they tossed the poor butcher in a blanket so violently, they broke every bone in his body, and he died from the effects of this practical joke. His family obtained compensation from King William III., and the lands

they acquired from the MacCarthy family were called "the estate of the Butcher of Conscience."[1]

It appears that between provincial courts and manor courts a great deal of money was expended at this time in litigation on the Munster circuit. Thus, in the memoir of Sir Richard Cox, I find that, previous to his going to the bar, he had a lucrative practice as an attorney in the manor court of Bandon, whereof his uncle was seneschal. His practice extended throughout a good part of the Munster circuit, and his ability was so conspicuous he was advised to go to the bar. He did so, and was called by the benchers of Gray's Inn, on the 9th of August, 1673. The Monday before his call, he argued the Readers case, on short warning, so much to the satisfaction of a numerous and distinguished legal audience, that Sir Francis Radcliffe—afterwards Earl of Derwentwater—offered him 100*l.* a year and other great advantages if he would settle near him in the north of England. Fortunately he declined this offer. He rose from rank to rank—was knighted, then created a baronet, Judge of the Common Pleas, Lord Chief Justice, Lord High Chancellor of Ireland, and several times Lord Justice.

That he was possessed of much sagacity, the mode in which he tested the accuracy, or rather the inaccuracy, of a deserter from the camp of James II., may be quoted as a proof. When the forces of William and James were encamped upon opposite banks of the river Boyne, Mr. Cox was then Secretary to Sir Robert Southwell, a minister in attendance on

[1] Gibson's "History of Cork," vol. ii. p. 144.

King William. Sir Robert, on Mr. Cox's information, informed King William of the strength of the Jacobite forces. An officer was brought before the king, who had lately deserted from the Irish camp, and he stated the number and position of James's troops with such confidence that he quite startled the commander of the allied army, for they were nearly double the number given by Mr. Cox. The king, in much trepidation, sent for Sir Robert Southwell, and told him he must have been misinformed, for the forces of the Irish were far more numerous than he was led to believe.

Sir Robert, much chagrined, spoke to Mr. Cox, asking how "he could have made so serious a blunder." Mr. Cox bade him "not be in the least alarmed, for he made his report, not upon mere conjecture, but on undoubted authority."

"Let us, sir," he said, "test the accuracy of this fellow."

"How can this be done now?" inquired Sir Robert Southwell.

"Let him pass through our camp," replied Mr. Cox. "Let him survey it at his leisure, and then, when he has completed his survey, let him report to his Majesty what he computes the number of our army to be."

This excellent suggestion greatly pleased the king, and it was at once adopted. The Irish deserter was brought through the various portions of the camp, and allowed every opportunity of making a careful scrutiny. When he had finished he returned to King William's tent, and confidently asserted that his army was more

than double the strength William actually knew them to consist of. He dismissed the deserter with a stinging reproof as a "conceited ill-guesser, and highly commended the sagacity of Mr. Cox, who so cleverly discovered the falsehood of the statement.[2]

Mr. Cox, native of the county of Cork, most probably went the Munster circuit, and had for co-circuiters Sir Richard Nagle, born at Anakessy, near Mallow, in the county of Cork, Sir Stephen Rice, and Sir Theobold Butler, also Munster men, very eminent lawyers and contemporaries.

When King William had places to bestow, Sir Richard Cox was sure not to be forgotten. He was made Recorder of Waterford, on the Munster circuit; but this post not being deemed sufficient reward for his services, and a seat on the Irish Common Pleas Bench being vacant, he exchanged the Recordership of Waterford for the Court of Common Pleas. Here he was not allowed to remain long absent from Munster. He was sent to Cork in rather a singular capacity for a common law judge—military governor. A brief correspondence between him and Sir James Cotter, an adherent of King James II., is so creditable to both writers, that I think it merits preservation here. Sir Richard Cox, under date of 1691, thus addresses his old friend :—

"*Cork, July* 6, 1691.

"SIR,—Upon the score of our former acquaintance, and the civility you have used to our friends whilst you were governor here and since, I think myself

[2] Harris's "Life of Cox," p. 210.

obliged to let you know that I have both station and inclination to serve you. If it should happen that you threw yourself upon me without capitulation (for your party is certainly ruined, and will every minute decay), you shall, undoubtedly be used as a man of honour; but, if you are of this opinion, bring off as many as you can, and their arms, because your terms will be so much the better. This will seem odd if you don't apprehend the case desperate; but because I am sure it is so, therefore you have this friendly advertisement from, sir,

"Your very faithful friend and servant,

"Richard Cox.

"To the Hon. Sir James Cotter."

Sir James Cotter thus replied:—

"Sir,—Notwithstanding our former acquaintance, it seems you do not know me. Whatever I might have done with sitting still, when laid aside in civilities—which for justice sake I distributed without distinction—I am now convinced, and will, I doubt not, be in a condition to return your kindness; for really your case is so desperate that you will soon have an occasion for it, and be confident, in anything that is just, you find me, sir,

"Your very affectionate friend and servant,

"James Cotter."

Notwithstanding the hardihood of Sir James Cotter's letter, his belief in the strength of his cause, and the desperate nature of his friend's, Sir Richard Cox's,

proved fallacies; he was obliged to sue for grace from Sir Richard, which was promptly given.

It seems not very creditable that the judges of assize were allowed to sell protections. In the "Autobiography of Sir Richard Cox" is the following entry:—

"In March (1692) the Lord Chief Justice and I went judges of assize to Cork and Waterford, and, by order of the Government, we gave printed protections to the Irish, for which we had sixpence a piece, so that we got 300 li a piece that journey."

I am enabled, by the kindness of the late Thomas Kelly, Esq., a promising member of the Munster circuit, who has been snatched away by death, to preserve the names of some eminent members of the bar in the early part of the eighteenth century.

In a correspondence during the year 1715 between Mr. John Kelly of Lymerick, and Mr. Patrick Creagh, merchant in Dublin, the former requests the latter to deliver a letter annexed with this injunction:—"But before you doe it be soe kind as to get Counseler Calahan's, or some other good counsel's opinion, if the under cash-note bears interest, as being past before the act was made for the like. You may have it by the help of Mr. Grady, at or under two plate cobbs."[3]

[3] I have not been able to ascertain the exact value of this coin, which, in an old dictionary, dated 1719, is stated to be "a foreign coin," of what country I am not in a position to state. In a subsequent letter I find the words, "the cost of two cobbs or two crowns," which would make a cobb equal to five shillings of our money. As a proof of the convivial habits of the bar at this period, I quote the following extract of a letter from Mr.

We learn from that very excellent work, Gilbert's "History of Dublin," that the old Four Courts in Christ Church Place was approached from a lane bearing the very infelicitous name of *Hell.* A tourist thus records his impression of this rather strange locality: —"This was certainly a very profane and unseemly soubriquet to give a place that adjoins a cathedral whose name was Christ's Church; and my young mind, when I first entered there, was struck with its unseemliness. Yes, and more especially when over the arched entrance there was pointed out to me the very image of the Devil, carved in oak, and not unlike one of those hideous black figures hung over tobacconists' shops. This locality of Hell, and this representation of his Satanic Majesty, were famous in these days even beyond the walls of Dublin. I remember well, on my return to my native town, after my first visit to Dublin, being asked by my play-fellows 'had I been

Kelly, addressed to Mr. John Blake, Dublin. In this letter Mr. Kelly mentions that there existed a diversity of opinion as to the interest on promissory notes being payable. Mr. Wall having given an opinion "that interest was payable," Mr. Kelly says:—"I have yesterday writt to Mr. Wall to consider better of ye opinion, and that two councills in Cork, and Counsellor Stackpole of Ennis, was of a different opinion, and alsoe writ to my friend in Dublin to *take a glass* with Counsellor Ffrench, Blake, or Calahan, and at ye cost of two cobbs or two crowns to get either of their opinions in that case on a note of the same tenor and date of yours, but persons' names different; and if the opinion was that it did not bear interest, to show it to Mr. Wall, which may oblige him to retract from his former opinion; and, if it did bear interest, to send it to me by post, and say nothing about it to Wall."

in Hell, and had I seen the Devil.' Its very name reached Scotland, and Burns, the poet, in his story of "Death and Dr. Hornbook," alludes to it when he says :—

> "But this that I am goin' to tell,
> Which lately on a night befell,
> Is just as true as the De'il's in Hell,
> Or Dublin city."

In this place the members of both branches of the legal profession—barristers and solicitors—had their chambers. Advertisements were common :—"To be let, furnished apartments in Hell. They are well suited for a lawyer." Here the great members of the bar—Prime, Serjeant Malone, Philip Tisdall, Sir Toby Butler, and other famous practitioners, kept their revels, and here, no doubt Mr. Patrick Creagh, while taking a glass and expending two cobbs, as directed by Mr. Kelly, obtained the opinion of Sir Toby Butler, which, I take it, was in corroboration of that given by Mr. Wall, "that the interest on the promissory note was payable, for, by a short letter, dated Lymerick, 22nd October, 1715, we read :—

"Mr. Pat Creagh,—Self in Cork, and on my return had yours 17th, with Sir Theo. Butler's opinion on the note, for wch am thankful.

"Yours, "J. K."

Sir Theobald Butler was a very distinguished member of the Irish bar. On the promotion of Serjeant Sir Richard Barnewall to the Exchequer bench, in 1688, Sir Theobald was appointed third serjeant, and the following year he became Solicitor-

General. Some amusing anectotes are related of him. His habits are said to have been too convivial; and when a very momentous case, in which he was leading counsel, was set down for argument, the wary solicitor made a stipulation that Sir Toby should not drink a glass of wine, or other spirituous liquor, until the argument was over. Sir Toby pledged his word, and, during the progress of the case, made one of his very best arguments, which carried the case triumphantly, to the solicitor's delight. "Now, Sir Toby," he said, "see the effects of refraining from *drinking*. If you had taken your usual dose of claret, you could not have been so clear as you were to-day."

"Now we have won," replied the toper, "I may as well confess that, feeling the necessity of some refresher, I got two hot loaves, which I steeped in two bottles of claret, and *I eat them*."

Sir Theobald Butler, with two other eminent counsel —Richard Malone and Sir Stephen Rice—were heard at the bar of the House of Lords in Ireland on February 28, 1703, against the Sacramental Test Act, which required all persons having any office, civil or military (including corporate officers, to receive the Sacrament according to the usage of the Church of Ireland, and, in default of so doing, the office to be void; and whoever should continue to act in such office, having neglected to qualify himself, was liable to the penalties imposed by the Test Act.

The effect of this was, of course, to disable Roman Catholics from holding any office, and the arguments of counsel were very able, especially that of Sir Theobald

Butler. As this is not the place for them, I merely mention where they are to be found.[4]

These were unhappy times for all those who regarded the Pope as Head of the Church, and we, who live in more tolerant days, must rejoice in our being allowed the free exercise of our religion and the freedom of our civil rights. It was otherwise in the reign of George I., as appears from a letter now before me, dated—

"*Lymerick, 15th June,* 1716.

"MR. PAT CREAGH,—Sir, I have your's twelve curt, and immediately delivered it enclosed to Mr. Davis, who admired at your long silence about it. I alsoe note my designed enemys[5] have not yet stood against me, nor do they resolve it, finding I was prepared to opose their allegations, and to know who they were that was to sign against me, many of whom refused signing; and others came to me, and excused it, saying they were put upon by some others more malitious; and, notwithstanding the designe looks to be over, I am for Mr. Moylan's giving the fee to the Solicitor-General to introduce yt, or any other bysiness I may have yt way another time.[6] I am, with all kind salutes, as usual,

"Your humble servant,

"J. K."

[4] Vide Plowden's Appendix, "Curry's Historical Review," and O'Flanagan's "Lives of the Lord Chancellors of Ireland," vol. i. p. 514.

[5] Popish Discoverers.

[6] This looks very like a fee for protection. The Solicitor-General at the time was William Whitshed; afterwards the

A Discoverer Baffled.

It is very pleasant to have to record many acts of kindness evinced by Protestants towards Catholic friends and neighbours during the penal days, such as the following. A Catholic gentleman of the county of Kerry, named Duggan, having notice that a Discoverer[7] was about taking proceedings to deprive him of his estate, was informed by a Protestant friend of high position in the county of Cork—Mr. Freeman, of Castlebar—that he (Mr. Freeman) was willing to take the initiative in such proceedings, and thus save the property for Mr. Duggan, which that gentleman heard with gratitude.

Judge Mr. Freeman's surprise when he was visited by the Discoverer in a chaise, going post to Dublin; and, as there were few inns on the road at the time, it was customary to halt each evening at some house of hospitable repute. The Discoverer made no secret of the purpose of his errand, being unaware of the great intimacy subsisting between his host and his intended victim. Mr. Freeman asked "if it was convenient for the traveller to give him a seat in the chaise, as he found he had pressing business in Dublin, and was willing to share the expenses of the journey." The traveller was only too glad to have the company of so reputable a country gentleman, and also to have his travelling expenses lessened, and away they drove.

That night they halted near Clonmel at the house of

Chief Justice, who acted so oppressively in the case of the printer of the Draper Battles.

[7] Popish Discoverers.

a hard-drinking, fox-hunting squire—a mutual friend of both Mr. Duggan and Mr. Freeman. The latter no sooner informed the Tipperary squire of the object of the journey of both himself and his companion than the jovial squire proposed to keep the Discoverer in such a state of inebriety he would not be able to leave the house until Mr. Freeman had made all safe for their mutual friend Duggan. Accordingly, next morning, the Discoverer had such a splitting headache he was quite unfit for prosecuting his journey, and, as Mr. Freeman was pressed for time, he was compelled to travel alone. The result was that when, about a week later, the Discoverer reached Dublin, he was rather taken aback on finding that the various denominations of land—heretofore in the possession of the Papist Duggan—were then owned by that staunch Protestant gentleman, Deane Freeman of Castlecor; and to this day some nominal rent-charge is paid by the Duggan family to the representatives of Deane Freeman for the lands thus protected. Many similar acts are recorded, but this must suffice as a sample.

CHAPTER VI.

Sir Constantine Phipps.—Chief Justice Pyne.—A corrupt Judge tricked.—Crimes on the Munster Circuit.—Abduction.—Abduction Clubs.—Case of the Misses Kennedy.—Trial and Conviction of the Culprits.—Sentence on Messrs. Kimberly and Meade.—Point raised by Mr. Kimberly over-ruled.

Mr. Smyth, in his sketches of the legal history of Ireland, gives a very deplorable account of the Irish judicial bench at the end of Queen Anne's reign. He says, "Judicial guilt, at the close of Anne's reign, was merely not uncommon, but general. Such as were of the Privy Council signed a report contrary to evidence which was laid before them at that board. The puisne judges concurred in this falsity without the warrant of any document. One of the body solicited the cause in England, and exhibited to statesmen a proof that, though Irish commerce was restricted, its judges made a lucrative traffic to the Crown, and, by parity of reason, to private parties, of the property, liberty, and lives of fellow-subjects."[1]

No wonder, then, we find the clergy, magistrates, and all persons residing within the area of the Munster Circuit, addressing the Queen in 1713 on behalf of a very upright man, Lord Chancellor Sir Constantine

[1] Smyth's "Law Officers of Ireland," p. 302.

Phipps, who had incurred the displeasure of some members of the Irish Parliament, who addressed the Queen for his removal. At the Quarter Sessions for the County of Cork, held at Bandon, on July 12th, 1713, the high sheriff, justices of the peace, clergy, and grand jury prepared the following address, which was presented to Queen Anne by Lord Bolingbroke:—

"We cannot but with grief and great concern take notice that the unhappy and fatal dissensions which reigned and were fomented some years past do yet continue in this kingdom, notwithstanding the indefatigable zeal and application of the Right Honourable Sir Constantine Phipps, Lord High Chancellor, and your other excellent ministers, to the contrary. We cannot but join, with great pleasure and satisfaction, your Majesty's most loyal Lords in Parliament, and your faithful clergy in Convocation assembled, in their dutiful and humble request to continue your royal countenance and favour to that great Minister whose impartial justice, consummate abilities, and unbiassed affection to the Constitution, in Church and State, are equal to those great trusts in which your Majesty's unerring wisdom for the safety and honour of your Majesty's interests and the common good of your people has placed him."[2]

The addresses and counter-addresses in the case of Sir Constantine Phipps must have puzzled the Queen, whose health was then very precarious. She died before any action was taken, for the Chancellor remained in office upon the accession of King George I.

[2] O'Flanagan's "Lives of the Lord Chancellors of Ireland," vol. i. p. 549.

Some curious stories are told of the corruption of judges in those days. One may be given as an instance. Chief Justice Pyne, who was appointed Chief Justice of the King's Bench in 1694, had the reputation of being influenced in his judicial capacity by gifts. He had landed property on the banks of the Blackwater, in Munster, called Waterpark, to which he repaired after the fatigues of the Munster Circuit. Being of a bucolic taste, he cultivated good breeds of cattle, and was noted for the value of his stock. The trial of a very important record, in which the claims of a Mr. Weller were opposed to those of a Mr. Nangle, was fixed for the Cork Assizes. On the day before that on which the Chief Justice was to leave Waterpark for Cork, he received a present of twenty-five splendid heifers from Mr. Weller, the defendant in the action. The Chief Justice returned a very gracious message to Mr. Weller by his steward, who came in charge of the cattle. This man was treated with great courtesy. He returned home to his master, well pleased with the urbanity and kindness of Chief Justice Pyne. The judge set forth next day for Cork. When driving along in his coach-and-six, passing near Rathcormac, where the bridge spans the Bride River, the road was blocked up by a drove of cattle. The Chief Justice looked out and beheld a prime herd of most valuable shorthorns. He beckoned a man who was driving the cattle to approach him, and demanded,—

"Whose beasts are these, my man?"

"They belong, please your honour, to a great gentleman of these parts, Judge Pyne, your honour," replied the countryman.

"Indeed!" cried the Chief Justice in much surprise, "and where are you taking them now?"

"They were grazing in my master, Mr. Nangle's, farm, your honour; and as the assizes are coming on at Cork, my master thought the judge might like to see that he took good care of them, so I'm taking them to Waterpark, to show them to the judge."

The judge felt the delicacy of Mr. Nangle's mode of giving his present. Putting his hand in his pocket, he presented the herd with a guinea, said he was Judge Pyne, and "that as his master, Mr. Nangle, had taken such good care of his cattle, he, the judge, would take good care of him."

At parting, he desired the herd to give the animals to his steward at Waterpark, and bade his coachman "drive on," which he did.

During the hearing of the action of Nangle *v.* Weller, the bearing of the Chief Justice seemed, at first, quite in favour of the defendant, and that gentleman nodded often to his attorney, as much as to say, "It's all right; I have secured the judge." But as the case went on, and it was the province of the Chief Justice to charge the jury, he put the case so strongly for the plaintiff that, to the dismay of Mr. Weller, the jury brought in a verdict for Mr. Nangle without leaving the box, and the judge certified for immediate execution. Mr. Nangle and his counsel were, of course, quite satisfied. No exceptions were taken to the judge's charge, and the case was won. When, on his return from the Munster Circuit, the learned judge arrived at Waterpark, his first question was,—

"Are the cattle all safe?"

"Perfectly, my lord," replied the steward.

"Where have you put the beasts I received when leaving for the Cork Assizes?"

"They are where you left them, my lord."

"Where I left them—that is impossible!" exclaimed the Chief Justice. "I left them on the road, near Rathcormac."

The steward was puzzled. He thought the wits of the Chief Justice were not so clear as those of a chief justice ought to be.

"Con," said Sir Richard Pyne, putting on his hat, "I'll have a look at them myself."

The steward led the way across the lawn to a grassy paddock, and there were found within twenty-five fine heifers cropping the grass, as happy as if their late master retained his property.

"I don't mean these," said the Chief Justice, rather testily. "I want to see those fifty shorthorns which came after I left home."

"Bedad! the long and the short of it is, them's all the cattle on the land, except what we bred ourselves, my lord."

And so it was; the sagacious Mr. Nangle had so timed the departure of his cattle as to meet the Chief Justice on the road. He had properly drilled his herd, who, with the tact of his country, relished the plot of "doing" the judge, for Mr. Nangle had no great faith in the integrity of that functionary. The judge's coach was no sooner out of sight than the herdsman turned his cattle, and before nightfall they were once more in the familiar fields of Mr. Nangle, where they were reared.

The Chief Justice felt he had been outwitted, but, of course, had no power of showing his disappointment. I hope it taught him a lesson, or that the whole story is but a legend of the Munster Circuit.

> "I cannot tell how the truth may be,
> I've told the tale as 'twas told to me."

About this period a dispute arose relative to taxation between the town of Youghal and the county of Cork. I suppose some landowner, desirous to save the expense of contested litigation, which would fall upon the general public, suggested arbitration, for the case was left to the decision of the judges—not *qua* judges, but, as the order informs us, "in their private capacity—and such decision as they should make was to be taken as final." Mr. Smyth, who records this circumstance, adds, "This proceeding must be considered a strong proof of Irish politeness, as I firmly believe it would be impossible to obtain a similar meeting at Serjeant's Inn, or to persuade that great body to act in a double capacity."[3]

While Mr. Justice Cox was going circuit, in 1700, he had to mourn the loss of his colleague on the circuit, Chief Justice Hely, who died at Ennis on the 7th of April, 1700, leaving Judge Cox to complete the business. It is possible his grief for the loss of his associate judge, who was also the Chief of the Common Pleas, was in some degree mitigated by Mr. Justice Cox obtaining the Chief Justiceship, which he did on the 16th of May, 1700.

[3] Smyth's "Law Officers of Ireland," p. 301.

Some very heinous crimes occupied the judges on the Munster Circuit during the eighteenth century. On the 7th of May, 1706, Mary Earberry was tried at Cork for causing the death of her husband by poison. The evidence was clear, and the jury without hesitation returned a verdict of wilful murder. The wretched woman underwent the fearful sentence of being burnt at Gallows-green, near Cork.

Although Ireland in general was free from attempts to replace the House of Stuart upon the throne of Great Britain, some few cases of treason were discovered, which employed the time of the judges on the Munster Circuit. At the Lent Assizes, in 1719, Captain Henry Ward and Francis Fitzgerald were indicted as traitors, for enlisting soldiers to aid the cause of the Pretender. They were tried and found guilty. The usual sentence following a conviction for high treason was inflicted. They were hanged and quartered on Gallows-green.

William Roe, who sympathized with the House of Stuart, was more fortunate. His offence was certainly a minor one. He was heard to give expression to the wish, "May King James III. enjoy his own again." These seditious words caused him to be tried for seditious language. He was convicted, and sentenced to stand in the pillory and be severely whipped. The Cork pillory was considered quite an improved engine of punishment. It turned on a swivel, so that the full front of the tortured convict presented a fair mark for the stale eggs, the damaged fruit from Seville's groves, and other unsavoury missiles aimed by the rabble rout against the culprit *in statu quo*.[4]

[4] Gibson's "History of Cork," vol. ii. p. 205.

Harbouring Tories and Rapparees was an indictable offence, and in 1739 a gentleman with the Celtic name of Murtagh Oge O'Sullivan, of Eyres, in the county of Cork, wishing to disclaim any desire of being even suspected of such impropriety, publicly advertised his disrelish at such imputation being cast upon his name, credit, and reputation, and his readiness to take his trial for the same at the next General Assizes. I am not able, from the misfortune which befell the records of the last century in the Crown Office, Cork, their being partly destroyed by two elements—fire, and water used in quenching the fire—to ascertain if Murtagh Oge O'Sullivan was able to substantiate his assertion of having no connexion with Tories or Rapparees.

It is sometimes dangerous to speak ill of great men; it is also a matter of danger to speak well of them, especially if in doing so we imply censure on men in authority. Thus, at the Summer Assizes held at Cork in 1741, a citizen named Richard Dooley declared in open Court that he did not expect justice while the Mayor sat on the bench. "This slur on the judicial conduct of the Right Worshipful Richard Bradshaw, who was then Mayor of Cork, was properly resented, and Richard Dooley was fined ten pounds for his indiscreet assertion."

I remember being much amused when on circuit, a hundred years later than Richard Dooley's time, hearing a prisoner, on being asked "was he ready for his trial," reply, "No, me lord; the Fermoy coach won't be in for another hour."

"What has that to do with your trial?" demanded Judge Perrin.

"Bekase I expect Captain Collis to come by it, me lord, and he'll see me justified."

Captain Collis, the poor man's landlord, was a highly respectable magistrate of the county of Cork.

The prison officials on the Munster Circuit sometimes got into trouble by their leniency. Thus, at the Autumn Assizes of 1751, Bryan Bonworth, the gaoler of the Cork Gaol, was sentenced to pay a fine of forty pounds, and to be kept in close custody until the fine was paid, for not having performed his duty in having one Timothy Burke branded in the hand with a hot iron, as he was directed to do—he, knowing the same to be his duty, used instead a cold iron.

Some bold attempts at escape linger among the traditions of the Munster Circuit, and deserve a place in its history. One of the most daring took place while the judge was passing sentence of death on a man named Matthew Callaghan, convicted at the Cork Spring Assizes of 1753 for robbing Captain Capel. Scarcely had the judge concluded a feeling address to the prisoner, "reminding him his hours were numbered, and he should make good use of the brief space which intervened between that day and the time fixed for his execution," than the convict with a bound leaped from the dock, though he had his bolts on, and made his escape from the court. Such a daring exploit deserved more success than befell Matthew Callaghan. He was captured the same day in the precincts of the Court House, and brought back to prison. His sentence was carried out. We can well imagine the popular sympathy being enlisted in favour

of a man who made so bold an effort for dear life, and cannot wonder when we learn that the informer who discovered on him was so ill-treated by the mob (having had one of his ears cut off) that his life was despaired of.

The crime of abduction—carrying off young girls possessed of fortune—has been an offence committed since very early times. Maids, wives, and widows have been the object, either of cupidity or amorous designs, from the days of Paris, son of Priam, to the attempt of Mr. Carden of Barnane to carry off Miss Arbuthnot in recent years. Abduction caused the siege and fall of Troy; it led to the invasion of Ireland by the Anglo-Normans; it induced the Irish House of Commons to pass an Act in 1634 for punishing all those who "carried away maydens that be inheritors." This statute was found insufficient to prevent the frequent commission of this offence, so the Irish Parliament of 1707 made *forcible* abduction a capital felony, and this Act also rendered those "who carried off heiresses, though not forcibly, incapable of enjoying their wives' fortunes." The statute recites how "one John O'Bryan, being a person of no property, did forcibly abduct and carry away Margaret McNamara junior, she being entitled to a fortune of two thousand pounds sterling," which fortune of two thousand pounds the statute provides should not be touched by the aforesaid John O'Bryan. As a proof of the frequency of these outrages, I may mention that associations for carrying off heiresses existed during the last century in Ireland. They were termed "Abduction Clubs." The members bound themselves by oath to promote

the success of their brother-members in carrying off such young, or old, girls as were the object of the members' choice. In order to ascertain who were eligible for the proof of their high consideration, the clubs had their spies and emissaries. They paid servants for information respecting the fortune of daughters of the masters, and means of obtaining admission to the houses where the daughters of neighbouring gentry resided, and for such details of their masters' houses and families as it was prudent to ascertain before the abductors ventured to carry off the young lady. The members of these clubs were usually what was known in Ireland as "squireens"—idle, dissolute, needy young fellows, drunken, debauched, improvident in their habits. Most of them were younger sons of country gentlemen, hangers-on or poor relations of respectable families—men who to dig were not able, and too proud to beg; they looked to making a good—that is to say, a rich—marriage as their only chance for giving them a station in society. When a rich girl was marked for prey, the members of the club in whose district she had the misfortune to reside drew lots as to who should be the abductor. When this was decided, and the person on whom the lot had fallen had no acquaintance with the object of his choice, his first care was to procure an introduction, and, if possible, gain her affections. Public balls, if they occurred at the time; meetings at private houses, if they moved in the same circle; race-courses or hunt-fixtures, if the fair lady was of a sporting character, were all availed of. The squireen was usually a good dancer and a daring horseman. When

he got introduced to the lady, he paid her marked attention. If he could marry her *in facie ecclesiæ*, it was so done; but there were romantic young ladies who preferred the *éclat* and risk of the abduction, and this put the love (!) and courage of the youth to the proof by outraging the law and perilling life by carrying off the lady.

This bad example of the upper classes was sure to find imitators among the lower, and farmers and labourers followed the mode of gaining their wives very frequently. Our Irish novelist—Carleton—very graphically describes a case of the kind, and also the prevailing notion the offence punishable by statute was not committed if it appeared the female was the abductor, and not the male. To give a *primâ facie* appearance to this state of the case, the female was often placed in *front* on the saddle, and the man *behind*, so that it appeared *she carried him* off, and not he. Several instances of abduction linger in Ireland. One of the most remarkable was the case of two sisters—Catherine and Anne Kennedy. They were daughters of Mr. Kennedy of Rathmeadan, in the confines of the counties of Waterford and Kilkenny. Their widowed mother and these two young ladies moved in a respectable circle, each of the daughters being entitled from their father's assets to a legacy of two thousand pounds. Their orphaned lot and considerable fortune, magnified by report to a much larger sum, exposed them to the dangers of abduction, and the members of the nearest club to their residence drew lots for carrying them off. Two persons who claimed to be gentlemen—a Mr. Strange of Ullard, in the county of Kilkenny, and Mr

Garrett Byrne, of Ballyann, county Carlow, were the two on whom the lots fell. They were bold, unscrupulous, and needy. They had spent nearly what little they ever possessed, and, immersed in debt, were ready to adopt any expedient to better their condition. They are said to have been of very different disposition. Strange is represented as a man of a harsh, irritable temper, resolute in carrying out any project on which he fixed his mind, and very unscrupulous in what means he employed to accomplish his aim. Byrne, on the contrary, was mild and gentle, though courageous, and, also impelled by distressed circumstances, he did not shrink from the risk he had to face in committing this deed. He had taken a great liking to Miss Catherine Kennedy, who is said to have been a girl of a gentle, loving nature; while her sister won the regard of Strange by showing a temper similar to his own. They mixed in the same society, and at evening parties, balls, and race-meetings, picnics and other social gatherings, the young men strove to improve the occasions, and ingratiate themselves in the esteem of the co-heiresses. The friends and mother of the girls, who knew that these men were penniless, would instantly have scouted their pretensions if they presented themselves as suitors. As the sisters were both extremely young—Catherine only fifteen, and Anne a year younger—no thought of marriage for them was as yet dreamt of. They promised to be very good-looking, Anne the more attractive of the two.

At Graiguenamanna—a small town, not very remote from Mrs. Kennedy's house—on the night of the 17th of April, 1779, a theatrical representation took place.

It was numerously and respectably attended. The little theatre was crowded. The rank and fashion of Kilkenny and the neighbouring county of Waterford were attracted to see the play, and the Misses Kennedy were in the boxes, chaperoned by their mother and aunt. They enjoyed the recreation heartily, poor girls, and as they laughed at the fun of the comedy, they little thought the after-piece was a tragedy, in which they were to enact the *rôle* of heroines. Yet so it was. Before the curtain fell on the closing scene, intelligence reached them that Strange and Byrne were prepared to carry them off that night on their way home. In fright and fear they left the theatre, and sought shelter in a room in the house. The girls were accompanied by their mother, aunt, and some male friends, who determined to resist this audacious attempt. For some time all was quiet, but, after considerable delay, the attempt was made with such violence, the door was burst in, and the friends of the poor girls were overpowered. The assailants were armed with swords and pistols, and, despite the utmost resistance of the young girls and their friends, these miscreants carried them off. Catherine was placed on a horse before Byrne, and Anne before Strange. They were joined by some females, sisters or relatives of these men. This was for the purpose of allaying the fears of the poor young ladies, and it had that effect at first.

They were carried that night to a place called Kilmasham, nearly twenty miles distant from Graiguenamanna. While on this lonely night-ride, they were constantly asked to consent to be married to their companions, but each stoutly refused. The females also

joined in their entreaties, and declared "if the girls refused compliance they would abandon them." While at Kilmasham, some food was provided; a person, said to be a priest, was produced to perform the marriage ceremony. Still they refused, when both Byrne and Strange swore "that if they persisted in their refusal they would be harassed to death by going from place to place until they consented, but that if they complied they would instantly be restored to their friends." Induced by this promise, they became calm, and a short ceremony took place. They then demanded the performance of the promise, and were told it would be complied with next day. Both sisters refused to retire to rest until a female accompanied each of them, which was granted; but these faithless women deserted them during the night, when the men occupied their places.

For some days they were carried about the country, and brought to the house of a person who was also said to be a priest. He tried to induce the ladies to live with these men, whom he called their husbands, and be on friendly terms with them, but they denied these men were their husbands. On this the scoundrels swore "they would put the girls into the coal-mines at Castlecomer," and Strange in a rage struck Anne on the face, a blow which rankled deep in her mind.

Thus, from day to day and week to week, until a weary month had passed, were these delicate girls carried through the counties of Kilkenny, Carlow, Waterford, and Kildare, to Dublin. They halted at a small village on the north side of Dublin Bay, called

Rush. Here they did not remain long. The men, I suppose, were afraid that, as pursuit was hot after them, they might be tracked, so resolved to have the sea between them and those who were bent on their arrest. They placed their victims on board a vessel, and sailed for the Wicklow coast. Arrived off Wicklow, the two abductors went on shore to purchase provisions, and while there they beheld the Revenue officers go on board their vessel. Feeling the game was up, they made their escape. A vessel was just starting from Arklow for South Wales, and took them on board. They reached Milford Haven in safety. When the Revenue officers came on board the vessel containing the captive ladies, the poor girls informed them of their sad story, and besought their protection, which was readily accorded. These officials took prompt steps to restore the young ladies to their afflicted mother and friends.

The capture of the culprits was soon effected in Wales. They were made prisoners at Milford on the 6th of July, and placed in Carnarvon Gaol.

There seems to have existed at first some doubt as to whether these men would be prosecuted. It was believed Catherine Kennedy had a great affection for Byrne, but Anne was resolved to convict Strange, whose conduct to her had been violent and harsh. A Mr. Hayes, a relation of the Kennedys, was determined to punish these men, and, owing much to his exertions, the girls were induced to make their joint depositions before the Lord Chief Justice of the King's Bench, Lord Annaly. The Attorney-General at that period was John Scott, afterwards Chief Justice and first

Earl of Clonmel. He was resolved, if possible, to make this case a terror to all abductors, and, under his directions, Byrne and Strange were tried at Kilkenny during the Lent Assizes, March, 1780. An attempt at defence was made. Letters were given in evidence for the prisoners, as if written by these young ladies, in which they actually invited these men to carry them off; but it turned out these letters were forged by Byrne's sister, who was heard to declare "she could imitate Anne Kennedy's handwriting so well no one could discern the difference." Letters in the genuine handwriting of these ladies were also produced, for the purpose of showing they regarded the prisoners as their husbands, and were treated by them with great affection; but it was proved these letters were written by the young ladies under coercion, through fear of greater ill-usage, and when they were away from all protection.

The result of the trial was the conviction of the abductors, and they were sentenced to be hanged.

Every effort was made to obtain a commutation of their sentence. Their position in life, their respectable connexion with many high families, who made application to the Government on their behalf; but all in vain. Scott, then Attorney-General, insisted an example should be made, and the sentence of death was executed. I understand the ladies subsequently married, but not very happily. They had gained unenviable notoriety, and, from that strange sympathy with crime so frequently found in Ireland, were regarded with aversion by the lower orders.

This was not the only case where the offence was punished with death.

When Messrs. Kimberly and Meade were found guilty for abduction, and sentenced to death in 1730, the sentence was carried into effect. Mr. Kimberly, who was an attorney, raised a curious point to delay his execution. Great efforts were made to obtain a commutation of his sentence, and the Lords Justices having granted a respite, *which included the day fixed for his execution,* Mr. Kimberly contended "his sentence thereby lapsed, or, at all events, could not be carried into effect without a fresh order."

This was a poser for the sheriff, who consulted Judge Bernard as to the effect of a respite upon the sentence. The learned Judge said "a respite did not affect the sentence—it only delayed its execution." Mr. Kimberly had the case brought before the Privy Council, who, not being well acquainted with criminal law, desired it might be referred to the law officers of the Crown. These were among the most eminent lawyers at the Irish or any other Bar. Prime Serjeant Singleton,[5] the Attorney-General (Marley),[6] the Solicitor-General (Jocelyn),[7] and Mr. Serjeant Bowes.[8] These gentlemen, having fully considered this knotty point, sent in their opinion. They agreed with Judge Bernard "that the reprieve had no effect but merely to

[5] The Prime Serjeant took precedence of the Attorney-General. This rank was abolished in 1804.

[6] Afterwards Lord Chief Justice of the King's Bench.

[7] Afterwards Lord Jocelyn, Lord Chancellor.

[8] Afterwards Lord Bowes, Lord Chancellor.

delay the carrying out of the sentence, and, in the present case, Mr. Kimberly could be lawfully executed at the termination of the time to which he was respited, without any fresh sentence." He did suffer death accordingly.

CHAPTER VII.

Death and Lament of O'Sullivan Beare.—Cork Barbers.—Assizes in 1764 and 1766.—Surviving the halter.

THE Sullivans seem to have given a great deal of employment to the crown counsel on the Munster Circuit. On the 14th May, 1754, a detachment of soldiers, under the command of Lieutenant Appleton, was despatched in pursuit of Morty Oge O'Sullivan, who, with others was charged with the murder of a man named John Puxley. O'Sullivan, surnamed Beare, was a native of Berehaven, near which Paxley was engaged in mining operations, and as it was not safe to arrest one of the most distinguished chiefs of the clan of O'Sullivan in his own wild district, Lieutenant Appleton was on the alert lest his party should be defeated. The lieutenant so timed his march as to arrive at a late hour, in order to surprise the O'Sullivans, but they were not to be caught napping. They had sentinels posted on the road, who soon gave intelligence of the enemy's approach, but the troops were so close to O'Sullivan's retreat the sentinels could do little more than warn him, and fly for their own safety. Appleton then ordered his men to encircle the house, and thus cut off any retreat, and O'Sullivan and his friends inside fired several shots at the soldiers. Finding the

military did not leave any opening for escape, O'Sullivan tried the stratagem of sending out his men one by one, thereby hoping the soldiers would run after them, and give him the opportunity of effecting his escape, but this was prevented by Lieutenant Appleton, who ordered his men not to leave their posts, but merely to fire at any one venturing to leave the house. At length O'Sullivan's wife and child, borne by the nurse, came out, and implored quarter, which was readily granted. Lieutenant Appleton inquired "Who was in the house?" She replied "Her husband and some of his men." Then Appleton resolved to make him leave shelter, which he effected by having the house set on fire. O'Sullivan and his party then rushed forth. He attempted to shoot Lieutenant Appleton, but his blunderbuss twice snapped, and he was shot dead. Two of his companions—John Sullivan and Daniel Connell—were taken prisoners. They were lodged in Cork Gaol, tried at the Summer Assizes, found guilty and executed. The death of O'Sullivan, who bore the distinctive addition of Beare—from his residence—was bewailed by the Celtic race. Callanan, the Cork poet, adopting the tradition that he was betrayed by one of his servants named Scully, wrote a spirited poem from which I give an extract:—

"The sun on Ivera no longer shines brightly,
The voice of her music no longer is sprightly;
No more to her maidens the light dance is dear,
Since the death of our darling O'Sullivan Beare.

"Scully, thou false one, you basely betrayed him
In his strong hour of need, when thy right hand should aid him.

He fed thee, he clad thee, you had all could delight thee,
You left him, you sold him—may Heaven requite thee."

We are informed that O'Sullivan's body was lashed to the stern of a king's cutter, and towed through the sea to Cork, where his head was spiked on the South gate. Connell, who fought for his master till he was taken prisoner, is the reputed author of the following lament—written in Cork Gaol the night before his execution. As a specimen of an Irish *caoine*, or death-wail, it is worth preserving.

"ELEGY ON O'SULLIVAN BEARE.

"Murty, my dear and devoted master, you carried the sway for strength and generosity. It is my endless grief and sorrow—sorrow that admits of no comfort—that your fair head should be gazed at as a show upon a spike, and that your noble frame is without life. I have travelled with you, my dear and much-loved master, in foreign lands. You moved with kings in the royal princes' army, but it is through the means of Puxley I am left in grief and confinement in Cork, locked in heavy irons without the hope of relief. The great God is good and merciful; I ask His pardon and His support, for I am to be hanged at the gallows to-morrow, without doubt. The rope will squeeze my neck, and thousands will lament my fate. May the Lord have mercy on my master! It is for his sake I am now in their power. Kerryonians, pray for us! sweet and melodious is your voice. My blessing I give you; but you will never see me again among you alive. Our heads will be put on a spike for a show, and under

the cold snow of night, and under the burning sun of summer. Oh! that I was ever born. Oh! that I ever returned to Bearehaven. Mine was the best of masters that Ireland could produce. May our souls be floating to-morrow in the rays of endless glory.

"The lady, his wife! Heavy is her grief; and who may wonder at that—were her eyes made of green-stone when her dear husband was shot by that ball? Had he retreated, our grief might be lighter; but the brave man, for the pride of his country, could not retreat. He has been in kings' palaces. In Spain he got a pension. Lady Clare gave him robes bound with gold lace, as a token of remembrance. He was a captain on the coast of France, but he should return to Ireland for us to lose him!"[1]

There is a touching strain in this lament which shows the writer had a grateful and feeling heart.

A novel trial for murder took place at Cork during the Lent Assizes of 1765. Mary Bourke, commonly called "Sterling Molly," and John her son, were sentenced to death for the murder of John Geary, by setting a mastiff at him, who tore several parts of his flesh in pieces. This sentence was afterwards commuted to transportation for life.

A number of barbers were convicted at Quarter Sessions at this time for exercising their trade on the Lord's Day, and each was fined a crown for each offence. One of them was considered to have greatly aggravated his crime by shaving three persons for a halfpenny each, which caused him to be fined three

[1] Gibson's "History of Cork," vol. ii. p. 524.

crowns. Probably the number of barbers induced competition, which led to the lowering of this barber's prices. We have heard of a barber who combined the trades of shaving and selling malt liquor, and placed on a sign the following couplet:—

> "Rove not from pole to pole, but step in here,
> Where nought excels the shaving but the beer."

The inhabitants of portions of the Munster Circuit had peculiar notions of amusement, as the following shows:—

"Lent Assizes, April, 1764.—A number of persons were tried for assembling in Hammond's Fields, near Blarney, on Sunday evening, armed with swords, in open contempt of the magistracy, whence they divided themselves into two parties, in order of battle, and maintained a running fight for several hours."

The city of Cork was infested with lawless gangs, whose violence was such that the peacable citizens were afraid to venture forth after nightfall. Robbery and burglary were of frequent occurrence, and some curious instances of the inefficiency of hanging are found in the annals of the time, which deserve a place in our history.

At the Autumn Assizes of 1766, a man named Patrick Redmond was indicted for robbing the dwelling-house of John Griffin. He was found guilty, sentenced to death, and hanged on the 10th of September, 1766, at Gallows-green, the usual place of execution at Cork. He was cut down after hanging exactly nine minutes; and an actor named Glover, who was then performing on the Cork stage, by means of friction and fumigation

succeeded in restoring animation, and, ere long, Patrick Redmond was able to walk as if nothing had happened to him. Possibly the ill-advised attention of his friends prevailed on him to drink more than he ought, for ere nightfall he got drunk, and went to the theatre to return thanks to Glover for saving his life.

The frequenters at the theatre, on beholding the appearance of a man in the evening whom many had seen hanged in the morning, were naturally considerably frightened, and women fainted, and a terrible scene of confusion took place. It is not stated that he was retaken, and we may infer he was a tailor by trade, for the Historian of Cork remarks, "he was the third tailor who had outlived hanging during two years."[2]

[2] Gibson's "History of Cork," vol. ii. p. 204.

CHAPTER VIII.

Success of the Fitz-Gibbons at the Bar.—The first Lord Avonmore.—Scott, Earl of Clonmel.—Lord Carleton.—How Mr. O'Brien got possession of Clonamuckoge.

It is time that we turn from the enumeration of the offences tried on the Munster Circuit, to glance at the characters and achievements of those eminent lawyers who have rendered famous the name of the Munster Bar.

While Lord Wyndham was Lord Chancellor of Ireland, in 1732, the Benchers of the King's Inn, Dublin, refused to call to the Bar a young Irish law student, a native of the County of Limerick, named John Fitz-Gibbon. He had duly kept his terms, and complied with the forms necessary for his admission to the practice of the law, but he had committed the offence of publishing "The Reports of Several Cases, Argued and Adjudged in the Court of King's Bench at Westminster, with some Special Cases in the Courts of Chancery, Common Pleas, and Exchequer."

These reports were regarded with disfavour by the English judges. Lord Raymond threatened to have the publisher punished for its publication. Sir James Barrows, who was a very excellent lawyer, and accurate reporter, in refutation of a statement "That the per-

formance was a libel on the Bar and the Bench, and made the judges talk nonsense by wholesale," says, "I have examined all the King's Bench cases, and have compared them with my own notes, and find him to have made the judges talk almost verbatim what I took down from their own mouths." Sir James, however, though he admits the accuracy of these reports, censures their publication as unauthorized.

Most likely the Irish Benchers were requested by their English brethren to refuse the young author admission to the Bar—certain it is, was it not for the cordial support of Lord Wyndham, then Lord Chancellor, backed by that of Chief Justice Reynolds, who brought the Benchers to allow his call—John Fitz-Gibbon would not have been a member of the Irish Bar. He was called, and went the Munster Circuit. He quickly got into practice, though he seems rather to have distinguished himself more as a Chamber counsel, than by his Court performances. Sir Jonah Barrington says, "Old Fitz-Gibbon loved to make money, and, in his day, it was not the fashion for lawyers to spend it. They tell a story of him respecting a client who brought his own brief and fee, that he might personally apologize for the smallness of the latter. Fitz-Gibbon, on receiving the fee, looked rather discontented."

"I assure you, Counsellor," said the client mournfully, "I am ashamed of its smallness; but, in fact, it is all I have in the world."

"Oh! then," said Fitz-Gibbon, "you can do no more—as it is all you have in the world, why I must take it."

As evidence of this statement I quote from a letter of a Limerick merchant, dated 23rd June, 1738, addressed to Mr. Martin Killikelly, Dublin :—

"Dear Sir,—Last post Mr. Philip Roche wrote to his brother, Stephen Roche,[1] to retain Mr. Fitz-Gibbon. I pray you will call on Mr. Roche, and know if he has done soe, and if he has not that he will doe it imediately, and, if Mr. Fitz-Gibbon should be retained before by any one for Chas. Wade, that I pray he will return Wade's friend back ye fee, for the affair in dispute touches my neer friend, as well as Mr. Roche, and of which tell Mr. Fitz-Gibbon. If he should be backward to return it, give my service to Mr. McDonell, and that I pray him to influence Mr. Fitz-Gibbon. I also pray you'll call on Mr. Marcwall with my service, and to give him a pistale,[2] as retaining fee for Margaret Roche, and I desired, in my last, ye calling on Mr. Bryan, Mr. Mahon, and giving him the Qr. Moydore.[3] If you have not seen him I pray you will, and let ye Qr. Moydore be a half pistale, and, if he should be engaged before for C. Wade, I pray he may return back ye fee, and that I doubt not his being pleased thereat."

[1] The Roches of Limerick were opulent merchants, both in the last and present century.

[2] An Italian coin, value 16*s.* 6*d.*

[3] Moidore, Mioda d'oro, and pistales, were Portuguese coins. A pistale was valued at 1*l.* 7*s.* 0*d.* of our money. A quarter moydore—not seven shillings—would be a small retaining fee. Foreign money seems to have been much in circulation on the Munster Circuit, owing to the great trade of Cork and Limerick with the Continent, especially with Spain and Portugal.

In several of these letters I find instructions to retain Mr. Fitz-Gibbon, Counsellor at Law,[4] who was in great request, especially in Limerick.

As he was called to the Bar in 1732, it is most probable he joined the Munster Circuit shortly after, and, being a native of the county of Limerick, was in good practice in that rich county,[5] as Mr. John Fitz-Gibbon purchased an estate along the banks of the Shannon, worth six thousand a year, but resided in a large house near Donnybrook, celebrated for its fair, which is now no longer kept. Here, in 1749, was born his second son, also named John, who was subsequently a famous leader of the Munster Circuit, filled the office of Attorney-General, and Lord Chancellor of Ireland. He is, however, best known—but not best loved—as Earl of Clare.

It is related that, even in his very childhood, the future Earl displayed symptoms of that arrogance which marked his subsequent career. Having incurred his father's displeasure for some schoolboy fault, Fitz-Gibbon, senior, sent his eldest son to command young John's attendance. The message was in the voice of authority—"Your father orders you to go to him; you must come instantly."

[4] The name of Fitz-Gibbon keeps its high repute on the Munster Circuit, and at the Irish Bar. Gerald Fitz-Gibbon, junior, son of Master Fitz-Gibbon, was her Majesty's Solicitor-General for Ireland. He was called to the Bar in Hilary Term, 1860; admitted Queen's Counsel July 6th, 1872, succeeded the Hon. David Plunket as Solicitor-General Hilary Term, 1877, and appointed Lord Justice of Appeal in 1878.

[5] Barrington's "Personal Sketches," vol. iii. p. 309.

"*Orders! must!*" repeated the boy of thirteen. "Such language suits me not, nor will I stir an inch—DECRETUM EST," and, proudly stamping his foot on the ground, remained stationary.

The messenger reported the reply. The old barrister laughed heartily at this presumptuous burst of haughtiness, and, in a formal note, jocosely "requested the honour of an interview with Mr. John Fitz-Gibbon, junior," when, after a few words of paternal admonition, no further notice was taken of the matter, and, in parliamentary phrase, the subject dropped.[6]

It was on the Munster Circuit that WALTER HUSSEY BURGH was born, and he became one of the greatest ornaments of the Irish Bar. He was called to the Bar in 1768, and was a contemporary of John Fitz-Gibbon, junior, who was called in the first day of Trinity Term, 1772. Of the eminent natives of Munster, who naturally selected that Circuit, was JOHN SCOTT, subsequently Lord Chief Justice of the King's Bench; HUGH CARLETON, Lord Carleton, Chief Justice of the Common Pleas; and BARRY YELVERTON, Lord Avonmore, Chief Baron of the Exchequer. The last-named eminent lawyer was born at Kanturk, in the county of Cork, in 1736, and was called to the Bar in 1764. He possessed very considerable talents; but as there were no Law Reports published in Ireland before 1796, when Messrs. Ridgway, Tapp, and Schoales issued Term Reports, we cannot give any specimen of his arguments at the Bar; but his judgments, as reported, show the clearness, force, and fertility of his

[6] "Essays of an Octogenarian" (James Roche of Cork), vol. ii. p. 36.

mind. He was fond of viewing the cases in a variety of points, and his mode of illustration showed great skill. He was also deeply read in law, and had a good knowledge of decided cases. He possessed a deep, full, and clear voice, and his enunciation was distinct. He displayed a logical mind, and his decisions show much order in their arrangement. He most likely continued to go Circuit until he became Attorney-General in 1782. While holding this office he was spending some time with the Earl of Kenmare, at Killarney, who gave a stag-hunt in his honour. The stag, after a long chase, reached the hill near which the Attorney-General, the witty Father O'Leary, and other guests of Lord Kenmare, were there viewing the chase. Close to the feet of Yelverton the panting stag lay down.

"How natural that is," said Father O'Leary to the Attorney-General. "The stag comes to you in hopes you will cause a *nolli prosequi* to be issued in his favour."

This *bon mot* was much applauded, and deserved to save the poor deer.

Barry Yelverton possessed a country-house on the banks of the River Bride, near Glenville, in the county of Cork. Here he was accustomed to repair after the labours of the Circuit, and here he enjoyed, as Curran reminded him, those Attic nights, and those refections of the Gods, with his admired and respected and beloved companions. Here he entertained Curran, and often members of the Circuit, in these happy meetings, which Curran so pathetically described. "When the innocent enjoyment of social mirth expanded into the

nobler warmth of social virtue, and the horizon of the board became enlarged into the horizon of man; when the swelling heart conceived and communicated the pure and generous purpose; when the young guests' slenderer and feebler taper imbibed its borrowed light from the mature and redundant fountain of their hosts, for

> "'We spent them not in toys, or lust, or wine—
> But search of deep philosophy,
> Wit, eloquence, and poesy;
> Arts, which I loved, for they, my friend, were thine.'"

Not long since I was visiting the banks of the Bride, and found where Barry Yelverton lived. A few stones mark the spot. I thought with Ossian,—"Why dost thou build the hall, son of the winged days. Thou lookest from thy towers to-day—in a few years the blast of the desert comes; it howls through thy empty courts, and whistles round thy half-worn shield."

John Scott, Chief Justice and Earl of Clonmel, was another Munster man. Born at or near Clonmel, in the county of Tipperary, in 1738, he was called to the Bar in 1764, and his indomitable impudence, and considerable abilities soon brought him into lucrative business. He possessed great tact. Though he could only boast a slight knowledge of text-books and statutes, he showed great skill in mastering the facts of a case, grasping the salient points, discovering how the evidence sustained his client's case; and, where evidence was conflicting, sifting the wheat from the chaff. He then threw overboard all that was worth-

less, and, with firmness and perseverance, presented the material points to the Court and jury. It was well known on Circuit few could equal John Scott in carrying a case by a bold stroke, or upsetting an adversary by some unexpected piece of evidence. He, like a skilful general, was always on the alert to cover his weak flanks—was wonderfully quick to meet unforeseen difficulties, such as constantly turn up during the trial of records on Circuit. If John Scott wanted familiarity with the deep-seated principles of the Common Law, few were more at home in the practice, and fewer equalled him in the adroitness with which he conducted his cases to a triumphant termination. He possessed a rich fund of humour, a great deal of oratorical power, boldness joined to quickness in reply, and much fertility of illustration. From the undoubted effrontery which he looked, as well as used, he acquired on Circuit the *sobriquet* of "Copper-faced Jack."

Hugh Carleton was co-temporary, and intimate friend of Scott's. He, too, hailed from Munster, having been born in the city of Cork on the 11th September, 1737. His father, Francis Carleton, was an eminent merchant, of rather a pompous disposition, which, probably, obtained him the title of "King of Cork." Hugh Carleton distinguished himself by gaining several prizes while going through Trinity College, Dublin. At College, Hugh became acquainted with John Scott, whose finances were then so low as to render the pecuniary aid of the son of the wealthy merchant of Cork very acceptable. Young Carleton was a most diligent student, and when he studied for

the Bar spared no pains to master his future profession. Sir Jonah Barrington bears strong testimony to his legal lore:—"At the Bar he was efficient; on the Bench he was exemplary. With a plain and exclusively forensic talent, cultivated with an assiduity nothing could surpass, he attained very considerable professional eminence: his whole capacity seemed to have been formed into nice points of law, regularly numbered, and always ready for use. His limited genius seldom wandered beyond the natural boundary; but whenever it chanced to stray to general subjects, it appeared always to return to its symmetrical technicalities with great gratification. Habit and application made him a singular proficient in that methodical hair-splitting of legal distinctions, and in reconciling the incongruity of conflicting precedents which generally beget the reputation of an able lawyer. The Government were glad to get him out of Parliament, and, without intending it, did an essential service to the due administration of justice."[7]

From this estimate of Mr. Carleton's legal abilities we can easily credit the very flattering account of his career given in the "Hibernian Journal" for June, 1795. "He was called to the Bar in Trinity Term, 1764, a profession, of all others, best suited to reward extraordinary abilities. During his practice his conduct was noble and disinterested. The lively vigour of his mind, and the felicity of his temper, made him rise superior to every difficulty. He married shortly after being called to the Bar. His first wife, whom

[7] Barrington's "Rise and Fall of the Irish Nation," p. 322.

he espoused in 1766, was daughter of Major Mercer. He appears to have got much more rapidly into practice than is usual; for, in 1769, five years after being called, he was appointed King's Counsel. Then, as now, it seems to have been the desire of ambitious members of the Irish Bar to enter Parliament, for in 1772 Mr. Carleton, K.C., was elected member for the borough of Tuam. He did not long sit as its representative, for we find him, in 1774, Member for Philipstown. I cannot say what party had the benefit of the hon. and learned member's support, for the celebrated Dr. Lucas was then dead, and the popular cause was only gaining scanty support; but it is probable Mr. Carleton was in the ranks of the Castle party, for in 1777 he became Second Sergeant, and in 1779, Solicitor-General. "In Parliament," we are told,[5] "he displayed that impartial, honest conduct, which every member of the senate ought to pursue. There he showed that his powers of persuasion, and his sources of knowledge, were great; his memory comprehensive and faithful; his language precise and copious, just, and elegant. To enjoy the favour of his sovereign, and the love of his countrymen, falls not to the lot of many; but this was the lot of Mr. Carleton."

Scott and Carleton must have been often engaged, either together or on opposite sides, on the Munster Circuit. They served together as Attorney and Solicitor-General in 1779, and as they acquired the rank and position of Chief Justices, ceased to belong

[5] "Hibernian Magazine," July, 1795.

to the Munster Bar. In 1789 Mr. Carleton obtained the Chief Justiceship of the Common Pleas on the death of Chief Justice Paterson. He was then ennobled by the title of Baron Carleton, of Anner, in the county Tipperary.

Lord Carleton seems to have been as amiable in private as he was exemplary in public life. The notice from which we have already quoted, truly says, "What are honours, or riches, or titles, if the man is not seen to advantage in private life. There we can say, with truth, and it gives us the most exquisite satisfaction—that his beneficent disposition, the dignity and elegance of his mind, blended with much philanthropy and politeness, form a virtuous basis, to which, in his conduct, he invariably adheres."

His lordship, being a widower, married a second time, in 1795, Miss Mathew.

He was greatly affected by having to try, in the Court of Common Pleas, Dublin, July 4th, 1798, the two brothers Henry and John Sheares, for high treason.

Both were deeply implicated in the United Irish Conspiracy, and a letter, written by John, to the Lord Chancellor, accusing him as "The Author of Coercion," set up in type when seized, caused the suppression of the "Press" newspaper.[9] Both were natives of Cork, born in Patrick-street, where their father for years carried on business, and was a member of the Irish Parliament. They selected the Bar for their profes-

[9] This letter is given in that valuable work which throws so much light upon this sad period of Ireland's story, Dr. Madden's "United Irishmen," vol. iv., p. 221.

sion, John being called in 1788, and Henry in the following year. They went the Munster Circuit, and it appears were, in their youth, on most intimate terms with the future Chief Justice, Lord Carleton, and also with Lord Clare. It is said the latter, when a young man, was greatly attached to Miss Swete, but had a successful rival in Henry Shearer, with whom the lady eloped. In the "Essays of an Octogenarian," Mr. James Roche mentions an interview taking place at his father's house in Limerick, between the Chancellor and the two brothers, who met him in private; but Mr. Roche observed their heated countenances on leaving, which he attributed to propositions being made which they spurned.

They were betrayed by a pretended friend, John Warneford Armstrong, found guilty, and executed. Curran defended, and used such strong language—the Chief Justice reminded him "it did not become one wearing the gown of one of his Majesty's Counsel." To which Curran replied, "Well, my Lord, they may take the silk, but they leave the stick behind."

When the brothers were convicted, John Shearer made a very feeling appeal to the Chief Justice. He urged that, "while the terrible sentence might be executed upon him with all the swiftness deemed requisite, his brother might be respited at the discretion of the Court. He said his brother's affairs required some little time for arrangement, and if both were taken off, an aged and revered mother, a dear sister, and the most affectionate wife that ever lived, with six children, would be left without protection or provision of any kind."

To this Lord Carleton replied, in tones that betrayed deep emotion, "In the awful duty imposed on me, no man can be more sensibly affected than I am, because I know the very valuable and respectable father and mother from whom you are descended. I knew and revered their virtues. One of them—happily for himself—is now no more—the other, for whom I have the highest personal respect, probably by the events of this day, may be hastened into futurity. It does not rest with us after the conviction which has taken place, to hold out mercy—that is for another place, and I am afraid, in the present situation of public affairs, it will be difficult to grant even that indulgence which you, John Shearer, so pathetically request for your brother. With respect to the object of soliciting time for your brother to arrange his affairs, unfortunately it could be of no use, because by the attainder he will forfeit all his property—real and personal—nothing to be settled will remain."

It is believed much unpopularity fell to Lord Carleton's lot after passing sentence upon these unhappy brothers; but he, of course, knew he should discharge his judicial duty. Dr. Madden is of opinion that, when the rebels mobbed Lord Kilmorden's coach in 1803, and he, hoping his name would ensure his safety, announced who he was, and immediately was killed, the ruffians mistook him for Lord Carleton.

In 1802 his lordship resigned the Chief Justiceship on a good pension, and went to reside in England. In 1810 he lost his second wife, but the neighbourhood of London seemed to have agreed with him. He received his pension for the long space of twenty-four

years. He died in 1826, at the advanced age of eighty-seven.

JOHN FITZGIBBON, junior, was called on the 19th June, the first day of Trinity Term, 1772. He was fortunate in rapidly getting practice, as the following entries in his fee-book show :—

FEES.

	£	s.	d.
1772	343	7	0
1773	414	3	5
1774	585	17	8
1775	619	17	1
1776	1066	19	1

During this year 1789, Lord Lifford died in his 80th year, and the Lord Chancellorship of Ireland became vacant. Great anxiety was felt as to his successor, and, as usual, Commissioners of the Great Seal were appointed. It would appear the custody of it was committed to Lord Chief Justice Carleton, for his respected relative, Rev. William Carleton, Rector and Vicar of Callan, county Kilkenny, informs me, "I have the Lord Chancellor's purse Lord Carleton used during the time he was acting as Lord Chancellor, and which my father got after his death."

It was generally expected at the time that at last an Irishman would be appointed to the Seal, and the practice, which had so long prevailed, of importing members of the English Bar as Irish Chancellors would cease. The Attorney-General, Fitz-Gibbon, had unquestionable ability, and strong political claims, but Lord Thurlow, then Chancellor of England, it is said, was resolved that no Irishman should hold the Great

Seal of Ireland. But the Irish Executive were not to be beaten, and, after great pressure, the stubborn Thurlow gave way, and FitzGibbon got the Seal.[1]

Having reached the thousand, I cease my extracts. Suffice it to state that, from 19th June, 1772, to 1789, he received fees to the comfortable total of 45,912*l.* 8*s.* 8*d.* Of these, 36,939*l.* 3*s.* 11*d.* were received during the last five years and a half.

During the year 1788, when he was Attorney-General, he was counsel in no less than 1367 cases. He naturally selected the Munster Circuit, on which his father's reputation was a good introduction. He soon got into lucrative practice, and was retained in every case of importance.

In Tipperary he was the advising counsel of an attorney named Denis O'Brien, who lent money to embarrassed landholders, and when the mortgage interest was not punctually paid, he quickly filed a bill to foreclose. In this way O'Brien obtained a decree for possession of a house and land denominated Clonamuckoge. But the Chancellor's decree was one thing, and the possession of Clonamuckoge was another; and when the owner was apprised that Mr. Denis O'Brien, armed with the decree of the High Court of Chancery, was about proceeding to take possession, he valiantly resolved to defend it.

The proceedings present so curious a specimen of the law and order on the Munster Circuit towards the close of the last century, that I give the particulars as they were sent to me:—"No sooner did the owner

[1] *Vide* O'Flanagan's "Irish Chancellors," vol. ii. p. 200.

hear that O'Brien was about to dispossess him, than he congregated a number of persons in the house, and fortified it for defence against the sheriff, or O'Brien, or whosoever was about to assail it. Among the other retainers was a person named Connell, a most expert shot with the rifle, and whose practised aim was sure to hit whatever came within its range. The attack was made, and the conflict resembled the storming of a fortress. There was partial success to the besiegers. The attacking force, commanded by O'Brien, made a lodgment in an outhouse; but, from the left of this building a detachment of the garrison kept up a flanking fire, which prevented the besiegers approaching the principal entrance. It was, therefore, the object of the enemy beneath to dislodge the garrison above; but these wary men were prepared for this. They had taken the precaution of supplying themselves with large iron pots, bullet-proof, in each of which a man took his stand. The assailants, unaware of this, fired repeated volleys through the boarded ceiling, in hopes of shooting the men above, and apparently without effect; while the fire was returned with deadly effect on the unprotected men beneath. Thus, after suffering severe loss of men, Denis O'Brien had to raise the siege.

"Strengthened by a party of military, in aid of the civil power, O'Brien, in 1784, made another venture. The galling fire kept up by the garrison, and especially Connell's dreaded rifle, rendered the attack also abortive. A letter addressed to an ancestor of my correspondent is very indicative of the then state of society in Ireland. The writer drove a handsome coach-and-

four, was a deputy-lieutenant and magistrate for the county of Tipperary, his daughter married a British Privy Councillor, Member of the House of Commons, and subsequently British Minister at a foreign Court:[2]—

"'*Sunday, March* 23*rd,* 1784.

"'DEAR ——,—I shall be much obliged to you to send me as many men as you possibly can to-morrow, to defend the possession of Clonamuckoge. I shall meet them as early as I can on the lands of Brownstown, which is joining Clonamuckoge. I write also to ——. I hope you will excuse this trouble. I assure you I expect it will be in my power to return the compliment.

"'I am, with love to my aunt and Mary,

"'Your affectionate kinsman.'"

By these means the possession of Clonamuckoge was retained to this model justice of the peace for a long time, but O'Brien was resolved not to be beat. He accordingly procured a large military force of infantry and artillery from Clonmel, and, with these, and the army of bailiffs, he made his approach as cautiously as if in an enemy's country. The cannon commenced to to play at so remote a distance that at first the balls fell short; but as the fire, even on a nearer approach, was not returned, the guns were brought so close the balls pierced point blank, and soon the front wall tottered. The repeated shocks of the cannon quickly did the work of demolition, and reduced the noble house to a heap of ruins. The wary garrison, informed

[2] Richard Lalor Shiel.

by their scouts of the nature of the force brought against them, had time to evacuate the house. Despite the obstinacy of O'Brien, the loss of life and danger increased, when he got possession. It turned out he was not entitled to retain it. A period of time after the mortgage money was due, allowed for redemption, had not elapsed, and he was put out by ejectment. But the resistance offered to the sheriff called the attention of the Legislature to the state of the law, and procured the passing of the Act making forcible resistance to legal process a transportable felony.

CHAPTER IX.

Progress of John Philpot Curran at the Bar.—His fee-book.—First great Case on the Munster Circuit.—Duel with Captain St. Leger.—Judicial exposition of Duelling—Counsel's readiness to fight.—Lord Chancellor Clare's enemity to Curran.—Suicide of Baron Power.

MICHAELMAS term 1775 witnessed the call to the Bar of the most eloquent advocate John Philpot Curran. He was for years the leader of the Munster Circuit and at the time of his admission to practise at the Bar, was twenty-five years old, married, and though rich in talent, poor in worldly wealth. Of him Davis thus writes:—

"The hills of Duhallow had laid lines of beauty and shades of wildness on his eye and soul. He had been sharpened by the position of his family—ennobled by the force of his mother's mind—instructed in Irish traditions and music. Knowing these, and such lore as Boyce could teach him, he left Newmarket. This wild, fanciful, earnest boy then picked up classic experience and ambition at Midleton, and was ennobled by generous companions, refined by study and society, and made fiery by lore and pleasure in college.

"In London, amid his melancholy and wildness, he had a strong resolve to be great and good. His melancholy grew glorious then, as sun-lit clouds; and honesty sustained his ambition against oppression or

dissipation. He loved to labour because he longed to enjoy."

After a careful training in London debating societies, he acquired a readiness and fluency which soon brought him to the front, and when called to the Bar he was not allowed to linger in obscurity. Through the kindness of my accomplished friend, W. J. Fitz-Patrick, Esq., J.P., I have obtained from Mrs. Curran, the first fee-book of John Philpot Curran, which disproves the generally accepted idea he remained for some years a briefless barrister. The first page of his fee-book is thus given:—

"Called to the Bar November 27th, 1775.

	£	s.	d.
Nov. 29th, Webb Carey v. Carey case . .	2	5	6
1776, Hilary Term	6	16	6
Easter, absent (Spring Circuit) . . .	7	19	3
May 22, at Tallow Hobson	11	7	0
June 14, Clonmel—Toler	34	2	6
Remainder of Trin. Term—Black eye . .	4	11	0
Summer Circuit	11	4	9
Mich. Term	6	16	6
Prim. Anno . . .	85	2	6
"1777 Spring Assizes	31	19	10

He made in his second year, 132*l.* 12*s.* 8*d.*; in his third year, 568*l.* 13*s.* 9*d.*; in his fourth year, 1038*l.* 10*s.*; not including the last Sligo Committee.

This branch of professional emolument appears from Curran's fee-book to have been a great source of income. From 1778 he appears to have been much engaged on

Parliamentary Committees, and as each attendance is marked 11*l.* 7*s.* 6*d.* was soon a profitable employment. The story related in Mr. Phillips' "Reminiscences of Curran and his Contemporaries," of his "living in a place called Hog-hill, in dirty lodgings, with a starving wife and dunning landlady, and returning from attendance at Court to find before him his first brief with twenty golden guineas, and the name of old Bob Lyons on the back of it," turns out, from the record before me, not quite accurate.

In the first place, Curran never lived in Hog-hill, and according to Davis there never was such a place in Dublin. When called to the Bar he lodged in Redmond-hill, a street between Cuffe-street, and Digges-street, a region then much frequented by barristers. Here he probably remained until 1781, when, according to his fee-book, he was in Ely-place.

Secondly, the brief with the fee entered in Curran's book as 22*l.* 15*s.* is among those received in Hilary Term, 1778, and was by no means the first. It was in the Parliamentary Petition of Ormsby *v.* Wynne, in which he had been retained by Mr. Lyons, agent for Mr. Wynne, who then gave him a fee of 11*l.* 7*s.* 6*d.* This was a profitable case. I find he received for attending the Committee 211*l.* 10*s.* The Committee, I apprehend, unseated Mr. Wynne, for I find also in 1778 the entry—"Mr. Wynne, Sligo Election, 100*l.*" Mr. Wynne was rather unfortunate in being returned, for he was again brought before a Parliamentary Committee. Under the heading, "Hilary Term, 1780," comes the familiar entry,—

"Ormsby *v.* Wynne—Lyons—Com. Petition. Re-

tainer 22*l.* 15*s.*," followed by entries of attendances, the fees amounting to 34*l.* 1*s.* 6*d.*

Another statement of Mr. Phillips is refuted by the fee-book. Mr. Phillips describes Curran as having attended the Cork Assizes, and walked the hall, term after term, without either profit or professional reputation. Now I find that rapid as was the increase of his Court business in Dublin, that of his Circuit was fully equal to it.

I quote his own returns:—

		£	*s.*	*d.*
"1776.	Spring Circuit	7	19	3
	Summer Do.	11	4	9
"1777.	Spring Do.	31	19	10
	Summer Do.	36	0	0
"1778.	Spring Do.			
	Clonmel. 15 18 6			
	Cork 54 12 0			
		70	10	6
	Summer Do.	62	11	3
"1779.	Spring Do.	86	0	0
	Summer Do.	34	2	6
"1780.	Spring Do.	34	0	0
	Summer Do.	180	0	0
"1781.	Spring Do.	120	0	0"

This is the last entry of his gains on Circuit entered in this book; and as his fame rapidly increased after his speech in Rev. Mr. Neale *v.* Lord Doneraile in 1780, I am sure his receipts henceforward must have been very great. If I have gone too minutely into this early record of the professional life of Curran, his name and fame must be my apology.

During the Cork Summer Assizes of 1780, an action for assault and battery was tried, which, from the position of the plaintiff and defendant, excited great interest throughout the country. The plaintiff was a Roman Catholic priest, Rev. Mr. Neale; the defendant, Lord Doneraile.

This nobleman, son of Richard Aldworth, Esq., of Newmarket, county Cork, had succeeded to the estates of his uncle Hayes, fourth Viscount Doneraile, that nobleman having died without issue in 1767. He was then St. Leger Aldworth; but, on becoming the owner of the estates of his maternal ancestors, assumed the family name of St. Leger, and on the 2nd July, 1766, was created Baron Doneraile.

It was the misfortune of this peer to have drawn a peasant girl from the paths of virtue, and, shortly after, the brother of this girl committed some crime calling for ecclesiastical censure, which the Rev. Mr. Neale, by the directions of his bishop, carried into effect. The young object of Lord Doneraile's illicit love applied to his Lordship for his interference in her brother's favour, and was promised prompt redress. Accompanied by a kinsman, Captain St. Leger, who had retired from the service, Lord Doneraile sought the small cottage in which Father Neale, the priest, resided. He was an aged man in poor circumstances. The Penal Laws were in full force, and he lived in seclusion. He was engaged in his office of prayer when he heard a loud voice calling him forth. He looked up and saw Lord Doneraile, mounted on horseback, calling him. He rose from his knees, and, book in hand, bareheaded, and feeble with

age, the priest obeyed his lordship's imperative summons.

"You have dared," cried his lordship, "to hurl the censures of your Papist Church against one of my men. I, Lord Doneraile, command you to remove it instantly."

The priest declared he would willingly do so if the matter rested with him, but it did not. He was bound to obey his bishop; the censure could not be removed save by the bishop's orders.

Losing command of his temper, the angry peer struck the defenceless old priest repeatedly with his horsewhip, until the blood flowed, and the priest retreated, stunned and bleeding, into his humble dwelling.

A courageous attorney ventured upon the bold step of bringing an action for assault on behalf of Father Neale against St. Leger, Baron Doneraile, and the cause was in the list of records to be tried at the Summer Assizes for the County of Cork, in 1780.

The Bar, as usual, mustered strong at Cork for the Assizes, but such was the St. Leger influence that no counsel was desirous of appearing for the plaintiff in this action.

Strange enough that Curran, who was a native of Newmarket, and whose father had been seneschal of the Manor Court of the Aldworths' family, should have volunteered to be the plaintiff's counsel. He felt that the case was one demanding redress, and determined the priest should not be *inops consilii*, but should have the benefit of his advocacy. He portrayed in scathing terms the outrageous conduct of the defendant; depicted the character of the humble priest; and lashed with fierce invective the man who stood tamely by and never

interfered to save Father Neale from the lash of his angry relative. He termed Captain St. Leger a renegade soldier, a drummed-out Dragoon, and turned this captain into ridicule when he came to be a witness for the defendant.

"You are a soldier, sir?" asked Curran.

"No; I am an officer," replied St. Leger.

"I see," said Curran. "You are then an officer, but *no soldier*."

The witnesses for the defence were obliged, under Curran's powerful questions, to establish in the full the plaintiff's case; and under his vehement advocacy the jury decided according to the evidence between man and man, and found a verdict for Father Neale with thirty guineas damages.

This verdict Davis calls "a conquest over the powers of Darkness; the first spoils of emancipation."

In consequence of the way Curran cast ridicule upon Captain St. Leger, that officer demanded a hostile meeting. Curran went out, and when on the ground St. Leger asked "Who should fire first?"

"I am here," said Curran, "by your invitation, so you must open the ball."

After an exchange of shots, without effect, the affair terminated. Captain St. Leger died shortly after, and Curran said it was of fright; he died from the report of his own pistol.

Duelling was very prevalent throughout Ireland during the last and early part of the present century. We may well cease to feel surprise at the prevalence when upon a motion for a criminal information in the Court of King's Bench, Dublin, the Chief Justice—Lord

Clonmel, gave a judicial exposition when he expressed himself as follows :—

"There are cases where it may be, and when it is, prudent for a man to fight a duel—cases in which the law does not afford him redress—cases of persevering malignity—cases of injured honour—cases of a wounded spirit; and a wounded spirit who can bear? In cases of this complexion the Court will never interfere with its discretionary authority against him. But in all these cases where a man seeks to bring himself into notice by provoking a combat—when an aspiring upstart seeks to put himself on a level with, or to humble his superior, cases where there has been no provocation —no sufficient ground to force a man of prudence to have recourse to the *ultima ratio*, or cases (as frequently happens in this country) where a man seeks to decide a contested right or a claim of property, by this sort of wager of battle, in all these cases the Court will lend its discretionary arm, and bear, more or less heavily, upon the party according to the nature of his transgression."

In these days duelling was rather the rule than the exception for gentlemen settling their differences. The Bar, were as fond of the Reports of pistols—as Reports of law —and the portion of the Park called "the fifteen acres," "be the same more or less," as a combative attorney clerk wrote when fixing the ground with an opponent, was usually the spot where men often were left "quivering on the daisies." John Fitz-Gibbon when Attorney-General, fought a duel with John Philpot Curran, and missed; both parties were to fire when they liked, and Curran, observing his opponent to take aim, when the

bullet left him unscathed, said, "I wonder you missed me, for your aim was deliberate enough."

At the Cork Spring Assizes of 1794 several prisoners were indicted for sedition, and Mr. Day, K.C., was directed by the Attorney-General to prosecute specially for the Crown. In his opening statement, he felt it necessary to advert, in strong language, to a member of the Circuit, then in Court, who he asserted was the fomenter of these very crimes which brought the prisoners to the Bar of justice. The barrister thus alluded to, declared, loud enough to be heard by those who sat near him, that "if these expressions were not retracted he would offer a personal insult to the Crown Counsel, when the Court adjourned."

Mr. Thomas Grady relates what occurred. "Having the honour of an intimacy with that learned person, Mr. Day, I went round, and informed him of this declaration; and he did not hesitate a moment, but, upon Lord Clonmell's principle, said what it was prudent for him to do upon the occasion. He desired me to go back, and inform that barrister, that he would not have made use of these expressions, but under an imperious sense of duty; having so made use of them, he would not retract them, but that he would give him any personal satisfaction he demanded as soon as the Court should rise."

"I immediately communicated his sentiments in his own words to the barrister in question, and the learned counsel never since heard any more of the matter."

While Fitz-Gibbon was Chancellor he evinced such hostility towards Curran as to deprive him of nearly all business in the Court when Lord Clare presided. On such rare occasions as Curran could retaliate, he lost no

opportunity of doing so. One day while Curran was addressing the Chancellor, his lordship turned to pat the head of a favourite dog that was beside him on the bench. Curran paused, and the Chancellor said, "Why do you not proceed, Mr. Curran?" the learned counsel rejoined, "Because I thought your Lordship was in consultation." Curran estimated his loss by the Chancellor's hostility at thirty thousand pounds.

Curran was not the only person who suffered from the arrogant Chancellor. He caused the suicide of a judge.

As a general rule, judges do not die by their own hand. They do not condemn themselves to death, like the Pope who it is said ordered himself to be burnt, "and," adds the Chronicler, "he was burned." They usually die of old age, and law officers consider them rather tough than otherwise. The legal annals of Ireland,[1] as far as I have been able to discover, give only one instance of suicide by a judge. This was a very sad case and was brought about in a lamentable way.

In 1793, about five years after Fitz-Gibbon had been elevated to the woolsack and ruled the Irish Court of Chancery with the arrogance peculiar to himself, one of the Barons of the Court of Exchequer was Baron Power. He was a man of great learning, but very eccentric. In stature he was short, and stout, but set up for an elegance to which he had no natural claim. In his own clumsy way he was as despotic as the lordly Chancellor, and combined a rude vulgarity of manner,

[1] In England a sad occurrence took place a few years since, the suicide of Mr. Justice Willes; but he was an Irishman, a native of Cork.

with an affectation of gentility. He was penurious to stinginess, yet, with strange contradiction, possessed a morbid love of display. He was very rich, and, together with his judgeship, unfortunately held the office of Usher to the Court of Chancery. By the usual custom, this office was very lucrative, large sums of money, concerning which Bills were filed, instead of being placed with the Accountant-General to the credit of the cause, were placed with the Usher to abide the result of the decree. Interest derived from these lodgments formed the remuneration of the Usher. A protracted suit, to which the Duke of Chandos and his tenants were parties, had been pending for some years, and the rents, under an order of Lord Lifford, when Lord Chancellor, were directed to be invested in Government funds, the principal and interest accruing therefrom to form a fund for whichever party obtained the final decree. The suit at length terminated in favour of the tenants, who were declared entitled to the fund in Court. When they applied to the Usher, however, he was only paying the principal, contending "that was all they had a right to receive." As the interest amounted to the large sum of 3000*l.*, it could hardly be expected the tenants would tamely consent to be deprived of this sum, and accordingly presented a petition to the Lord Chancellor against the Usher. The Lord Chancellor, it is stated,[2] had a great antipathy to Baron Power, and lost no opportunity for displaying his dislike. The present was quite ample occasion to indulge his rancour, for, on finding that the order of his predecessor was express, and that the in-

[2] Gilbert's "History of Dublin," vol. iii. p. 290.

terest should follow the principal, and the withholding it was quite unjust, he made a peremptory order, "that the Usher should attend in Court, and account for his conduct." Baron Power, in a communication to the Lord Chancellor, remonstrated against this order. He called the Chancellor's attention to his station as one of the judges, having a seat on the same bench with the Chancellor in the Exchequer Chamber, and besought him to spare him the indignity of a public reprimand. To this the Lord Chancellor replied, "that he was not dealing with Baron Power, but with the Usher of his Court," that he should insist upon the personal attendance of the Usher to explain his conduct, and required his attendance the next morning. He added, in very peremptory terms, "that no person should hold any office in the Court of Chancery, as long as he presided, who failed to give personal and immediate attendance when directed."

This mandate struck deep into the heart of the delinquent official. There was no room for evasion, or for much delay. True, the next day was Sunday, when the dreaded explanation could not be given, for the Chancellor did not sit, and, although the sum of three thousand pounds was large, it was nothing in point of fact, as far as payment went, for the Baron had at this time invested for his own use no less than sixty thousand pounds in the funds. But there was the disgrace of seeking to appropriate to himself the property of others, though he might have rested his defence upon the established practice of the office. This preyed so deeply upon the mind of the wretched Baron, that it affected his reason, and he resolved on self-destruction. The

sabbath day came with its solemn quiet; the bells tolled forth their invitation to prayer; churches and chapels held their crowded congregations; but no holy thought soothed the perturbed spirit of the Usher of the Court of Chancery; no regard to the future passed over the mind of Baron Power. If it did, it was rapidly put aside, or buried beneath the sullen and stern resolve of the suicide. At one o'clock all was ready; he had passed the morning in arranging his papers, and made his will. He then ordered his horse, and attended by his servant rode forth to die.

When he reached the extremity of the South Wall, he deliberately dismounted, and gave his horse to his groom, with directions to walk the animal to Ringsend, and there await his return. He stood still until he was alone, and then plunged into the packet dock, from whence he never emerged alive. His lifeless body was found next day.

Baron Power resided from the year 1771 to the date of his melancholy end in Kildare-street. He had no immediate family, but two nephews, highly respected gentlemen, inherited his great wealth. This sad event placed a very lucrative appointment in the gift of the Lord Chancellor.

CHAPTER X.

State of Kerry and Cork in 1787.—Breaking out of prison.—The Rebellion of 1798.—Diary of Wolfe Tone.—Sir Vesyan Pick, Mayor of Cork, 1796.—Henry and John Sheares.—Judge Day.—Tragical Death of Colonel Fitz-Gerald.—Fate of the Honourable Miss King.

THE kingdom of Kerry, as Curran called it, in a speech delivered in the Irish House of Commons, on the 23rd January, 1787, was then in a very disturbed state. He speaks of this as owing to the supineness of the local authorities. "The low and contemptible state of your magistracy is the cause of much evil, particularly in the kingdom of Kerry. I say kingdom, for it seems, absolutely, not a part of the same country as the rest of Ireland."

"Sir, I will relate to you a circumstance that will give you an idea of the vigilance of the magistrates in that quarter. One Laly, a notorious offender, for whom a reward had been offered by Government, appeared openly in the county. A poor cottager was met by a person one morning as he was going to pay his rent. The person asked him, 'Was he not distressed to make up the money?' The poor cottager innocently replied, 'Why should I want money, when I can at any time get fifty pounds for informing

against Laly?' For having dropped this expression, the wretched cabin was that night broken open by six armed men; and as himself, his wife and children sat round a little table, at their tasteless and scanty meal of dry potatoes, a blunderbuss was discharged on them, scarcely one of the children escaped being wounded; the father was shot dead on the spot. In Tralee another fellow broke gaol, and they are both walking about the country, not skulking or hiding, but in the face of day. To my own knowledge, informations were laid before a magistrate—a very respectable person—but no step has been taken to apprehend them, and the murderers and the outlaw stalk about the land, laughing at the sleeping laws."[1]

The county of Cork almost equalled Kerry in lawlessness. Men with blackened faces (they could not be designated *White* Boys) roved about, armed with swords and bludgeons, and entered the shops of respectable citizens, injuring the goods and breaking the windows. The only reason which could be assigned for such misconduct being that the shop contained English and Dublin goods.

The condition of the prisons, in the various towns on the Munster Circuit towards the close of the eighteenth century, was very deplorable. In those days debtors, who were insolvents, were obliged to herd with criminals, and the following is a strong proof of the sad state to which persons in the always unhappy state of impecuniosity were subjected:—"The debtors in the South Gaol of Cork were reduced

[1] Debates, vol. vii. pp. 41, 42.

to the necessity of drinking salt water for the last three months, their pumps being for a long time dry, and many of them in consequence very ill, they humbly besought the managers of the pipe-water, through the newspapers of the day (Nov. 27th, 1782), to redress that great want."[2] The prisons were in so insecure a state that escapes from custody were of common occurrence. Several took place in 1782. On December 27th of that year, the criminals in the North Gaol of Cork, by the aid of saws, cut their way into the room where the keys were kept, which they broke open, and got into the upper rooms, and, by making a rope fast, five of them let themselves down into the street and escaped. Among them was a notorious robber, called Jack-a-boy, whose feats seem to have rivalled Jack Sheppard's. He was not so lucky this time, for he was captured the following morning at Blackpool, and conducted back to his old lodgings. He seems to have been long in custody—for, under date of 28th September, 1785, it is related the criminals in the North Gaol attempted to escape. They broke several of the doors to get to the top of the gaol, which they succeeded in reaching. Then, by tying their blankets and sheets together, they made safe their descent to the street. Jack-a-boy, or John Callaghan, which was his proper name, together with a man named Linehan, both under sentence of transportation, made good their escape on this occasion. Another of the band was retaken, concealed under a boat on the quay.

A few years later, in 1787, three felons, prisoners in

[2] Tuckey's "Cork Remembrancer."

the South Gaol of Cork, under sentence of transportation, escaped from their cells by means of the sewer; and, getting into the river at low water, waded across. But it was low water with them, for, on landing, they were recaptured.

In 1791 another attempt nearly succeeded. On the door of the County Gaol being opened a felon rushed out, made towards Hanover-street, over Wandesford Bridge, where the turnkey overtook him; upon this the convict, who was armed, attempted to shoot him, but, luckily for the turnkey, the pistol missed fire, and the convict was brought back in custody.

An amusing instance is related of the ingenuity of a Cork citizen in capturing a thief, which deserves a place in this history. Mr. Nixon—for such was the citizen's name—being repeatedly robbed of articles of jewellery, baited a gin rat-trap with a pair of diamond buckles, and placed the whole under a glass case. When the thief paid his customary predatory visit, he cautiously removed the case, and tried to snatch the glittering prize, but the effort caused the trap to close with a snap that held his hand tight, until Mr. Nixon caught him in the act, and he was speedily lodged in gaol.

A case of abduction cost a respectable clergyman his life. A party of gentlemen, among whom was the Rev. Emanuel Moore, joined in pursuit of a gang who had forcibly abducted a farmer's daughter, in County Cork, and coming close to them were met by a volley of fire-arms, by which the Rev. Mr. Moore was killed.[3]

[3] Tuckey's "Cork Remembrancer."

A considerable portion of the Munster circuit was much agitated by the Rebellion of 1798. The French expedition, organized by Wolfe Tone, who, undoubtedly, was a man fitted to take a leading part in any perilous enterprise, had, in 1796, nearly effected a landing in Bantry Bay. Tone's diary gives ample evidence of what might have taken place had not the same power which saved England from the Spanish Armada saved Ireland from the French invasion. Under date of December 22, 1796, Tone says,—

"This morning, at eight, we neared Bantry Bay considerably, but the fleet is terribly scattered. No news of the *Fraternité*. I believe it is the first instance of an admiral, in a clean frigate, with moderate weather, and moonlight nights, parting company with his fleet.

"*December 25th.*—Last night I had the strongest expectation that to-day we should debark, but at two this morning I was awakened by the wind. The wind continues right ahead, so that it is absolutely impossible to work up to the landing-place, and God knows when it will change.

"Had we been able to land the first day, and march directly to Cork, we should have infallibly carried it by a *coup-de-main*, and then we should have a footing in the country; but, as it is—if we are taken—my fate will not be a mild one."

Conway and Swanton, both Cork men, were actively engaged in supporting the cause of the United Irishmen. Conway was one of the directory. He was a watchmaker. Both he and Swanton were arrested, and lodged in Cork Gaol. Conway's health broke down

under the confinement, so he offered to give information against his rebellious associates in exchange for his liberty.

This offer was accepted, and the "Cornwallis Correspondence" informs us, the information he gave was very valuable.[4]

Mr. Swanton was a native of Dunmanway, and effected his escape. He went to America, and employed his talents in the legal profession with such success that he became a judge. He revisited his native land in after-years. The Mayor of Cork, in 1796, was Sir Vesyan Pick, and we can make allowance for his perturbed mind when the news reached Cork that the French fleet were in Bantry Bay. He is said to have sent despatches to the Lord Lieutenant, informing him the city was in a state of readiness, and that at the time of writing he held a sword in one hand and a pistol in the other.

The unfortunate brothers—Henry and John Sheares—were barristers and members of the Munster bar. Their father was a highly respectable and opulent banker residing in Patrick-street, Cork, and was remarkable for his humanity—a humanity of deeds, not words. In 1774 he established a society in Cork for the relief and discharge of persons confined in the gaols for small debts. He was a member of the Irish Parliament, having represented the borough of Clonakilty in the House of Commons from 1761 to 1768, in place of Lord Boyle, returned for the county. Both these gentlemen—Henry and John Sheares—

[4] Cornwallis Correspondence, vol. iii. p. 85.

imbibed the terribly democratic principles of the French Revolution, and O'Connell, who met them on his return from the Colleges of St. Omer and Douai, was horrified at the language in which they boasted of having witnessed the execution of Louis XVI.

They had been friends of Fitzgibbon, Earl of Clare, and it is said that Henry Sheares was his successful rival in gaining the affections of Miss Swete, to whom Fitzgibbon was greatly attached.

It is highly creditable to the memory of that nobleman to relate the following anecdote, communicated by my respected friend, the late James Roche, the Roscoe of Cork, one of the most learned men of his time, and a frequent contributor to various periodicals:[5]—

"Before the outbreak of the insurrection in 1798, during the assizes of Limerick, Lord Clare desired to have an interview with the two Sheareses, to which my father, in the hope of a pacific result, invited them to his house; but it ended, unfortunately, in more intense exasperation and irritation, as was discernible in the young men's flushed features and defiant bearing as they parted. Yet the Chancellor's object was certainly benevolent and conciliatory; but they were intractable. The interview was close and private, still I marked their aspect on leaving the house—inflamed and indignant in every lineament. Possibly overtures

[5] These valuable papers, chiefly contributed to the "Gentleman's Magazine," were printed for circulation among his family and friends in two vols., entitled "Essays by an Octogenarian." He died in 1853.

repulsive to their feelings may have thus excited them."

They were, as we know, executed. They were betrayed by Captain John Warnford Armstrong, who visited them as a friend.

The judges who, towards the close of the last century, usually went the Munster Circuit, were Barry Yelverton, Lord Avonmore, the Right Hon. Thomas Kelly, Judge Crookshank, Judge Finucane, and Judge Day. Some anecdotes yet linger of these old judges. Judge Kelly, remarking a sporting juror of the county Clare coming into court after a fine had been recorded against him for absence, reminded the dilatory juror, "You would not have been so late at a fox-hunt."

Judge Day, who was a very tall man, was seen walking with the late Sir Arthur Clarke, whose dwarfish figure presented a very marked contrast with that of the judge. "There goes," said a witty barrister, "the longest *Day* and the shortest *(K)Night.*"

When once, on the Munster Circuit, his Associate Judge, Serjeant Browne, was a mere dwarf in comparison. This occasioned the following epigram:—

> "As brawny Day and puny Brown
> Came thundering into Limerick town,
> 'Lord!' cries a lout, with wondering eyes,
> 'Call you them Judges of Assize!'"

At the Assizes of Limerick, in 1799, Judge Day was trying to dispose of the heavy calendar of criminals, so as to keep his time for opening the commission in Tralee. He was going into a fresh case so late as

twelve o'clock at night, despite the earnest protest of the bar. He would listen to no remonstrance, and was directing the jury to be sworn, when a note was handed him by the crier. The judge read it, his features relaxed into a smile, and he suddenly declared, "He would go no further that night." The note contained the following lines, written by a member of the circuit named Casey:—

"Try men by *night!* my lord, forbear;
Think what the wicked world will say;
Methinks I hear the rogues declare
That *justice is not done by Day.*"

Towards the close of the year 1797, a very tragical occurrence took place on the Munster circuit, for which indictments were preferred at the Lent Assizes, in April, 1798. The going judges were the Right Hon. Thomas Kelly and the Hon. Matthew Finucane. The grand jury was composed of gentlemen of the highest rank in the county—Lord Boyle, eldest son of the Earl of Shannon (foreman); Deane Freeman, Uniacke Fitzgerald, Longfield, Aldworth, Townsend, &c.; and the senior judge charged them carefully; for among the cases to go before them was one charging no less personages than Robert Earl of Kingston and his son, the Hon. Robert King, with the crime of murder. The evidence proved that the Earl of Kingston, then Lord Kingsborough, accompanied by his son, Colonel King, arrived at the hotel in the principal street of the town of Kilworth, in the county of Cork, in the evening of a day in October, 1797. His lordship inquired whether a strange guest had arrived there that day,

and was answered in the affirmative. He then asked if he could see him, and was told "he was then in the house, but had gone to his room." His lordship then sent up his compliments by the waiter, with the expression of his anxiety to see him on business. The waiter went to the guest's bedroom; the door was locked, and the guest, who, it appeared, was a Colonel FitzGerald, refused to open it, and told the waiter "not to disturb him at such a late hour, as he could attend to no business that evening." His voice at once told Lord Kingsborough and his party that Colonel FitzGerald was the speaker inside. They vociferously demanded admittance. Their request was not acceded to, and the door yielded to pressure, and they rushed into the bedroom. Colonel FitzGerald was armed with a brace of pistols. Colonel King at once rushed towards him in order to seize him. Colonel FitzGerald grappled with him, when Lord Kingsborough, violently excited, shot FitzGerald, who immediately fell. Dr. Pigot, of Kilworth, was sent for, but the wound was mortal, and the unhappy man shortly ceased to live. Lord Kingsborough at once went to the seat of his brother-in-law, Moore Park, Kilworth, residence of the Earl of Mount Cashel, and offered to take his trial, exclaiming, "God! I don't know how I did it; but I most sincerely wish it had been by some other hand than mine." Bills of indictment were prepared and sent before the grand jury, as I have already stated, and were found against Robert Earl of Kingston, Colonel the Hon. Robert King, and John Harvey. As the Earl of Kingston, father of Lord Kingsborough, had died subsequently

singular chance brought about the discovery of Colonel FitzGerald's infamous conduct. A young woman came to the house, and asked to see Lady Kingsborough. She was admitted, and told the lady she was servant in a lodging-house in Clayton-street, Kennington. Some weeks back, a gentleman and young lady came to lodge in that house. The lady had a quantity of beautiful hair. This servant had seen the bills offering rewards for the discovery of the missing young lady, and the description in the bills excited her attention. One day, on entering the lady's bedchamber, she saw the lady cutting off her beautiful hair, so she made certain the young lady was the same alluded to in the bills.

While the servant was describing these circumstances, the door of the room in which she was telling all this to Lady Kingsborough opened, and in walked Colonel FitzGerald. He had come on his daily visit of pretended sympathy and anxiety. He never noticed the servant, who grew pale and agitated on seeing him. She exclaimed, "Oh! my lady, that's the very gentleman who brought the young lady to our house."

Lady Kingsborough almost fainted; and, utterly confounded, Colonel FitzGerald rushed from the house. Lord and Lady Kingsborough were sorely afflicted by the villany of this infamous man. They lost no time in recovering Miss King, and carried her to the family seat—Mitchelstown, in the shelter of the Galtee mountains, in Ireland. This castle, now of great magnificence, was then a substantial mansion, surrounded by an extensive lawn and high wall. Here it was expected she would be safe from her vile pursuer. The

sons of the noble lord, and brothers of the Hon. Miss King, resolved to punish Colonel FitzGerald. Robert, the second son, subsequently General Lord Lorton, challenged the Colonel to fight a duel, and, attended by his second—Major Wood, of Ashford—proceeded to the ground named for the duel in Hyde Park. The day was October 1, 1797. But so infamous was Colonel FitzGerald's conduct in the eyes of all gentlemen, that not one would act as his second. The principals were placed only ten paces distant, and fired no less than four shots at each other, none taking effect.

When the fourth shot was fired, Colonel FitzGerald asked "if he could get some advice from Major Wood, as a friend?"

That officer at once said "he disclaimed any friendship with Colonel FitzGerald, but thought, if the Colonel acknowledged his baseness, the affair might end." Colonel FitzGerald replied "he was willing to admit he had acted wrong." This not being deemed a sufficient admission under the circumstances, the duel was renewed, and two more shots were exchanged, without any injury to either of the combatants. Then Colonel FitzGerald's powder being all used, he asked for a supply, or the use of one of his antagonist's pistols. Major Wood declined this strange proposal, though Colonel King desired he would grant the request.

An adjournment was then agreed on, and both parties were to renew the duel next morning. This was prevented by the police, who arrested both the principals.

Colonel FitzGerald succeeded in obtaining his release, and, with a determined persistence in his evil designs upon the young lady, went at once to Ireland, resolved to take her away again. He had a confidante in the maid who was the attendant on Miss King, and she acquainted him with her retreat. The town of Mitchelstown is close to the seat of the Earls of Kingston. The entrance to the grounds forms a side of the square, and on the opposite side is the hotel, then kept by Mr. Barry. The innkeeper's suspicions as to the employment of his strange guest were aroused by the conduct of this man. His appearance was singular—he was tall and very handsome, with flowing beard, and whiskers to match—yet he seemed to know no one in the town or neighbourhood. He shut himself up, during the day, in his room, and went out at night. The neighbouring Kilworth mountains were celebrated at that time as the resort of highway robbers. Captain Brennan's gang are remembered to this day, and it was thought this military-looking visitor might belong to the gang, or, maybe, was the bold Brennan himself. He mentioned this man, and his strange mode of passing his time, to Lord Kingsborough, who came over to take command of the yeomanry, as the rebellion was spreading over the land. Lord Kingsborough instantly guessed the visitor was neither Brennan nor any of his gang, but the terrible wolf who sought to deprive him of his once spotless lamb. Furious at this instance of persevering rascality, Lord Kingsborough went across the square to the hotel, and inquired for the stranger. Whether anything in Barry's manner had alarmed that individual, or finding Lord Kings-

borough returned urged his departure, we know not, but a post-boy of the inn told his lordship he had driven the strange gentleman that day to the inn of Kilworth. Lord Kingsborough was resolved to ascertain who this stranger was, and with his son, Colonel King, and a servant named Harvey, went to Kilworth. We already know what took place there.

The following extract from my friend, the late Daniel Owen Madden's interesting "Revelations in the South of Ireland," gives the conclusion of this romance in high life:—"Miss King was removed to England, and was domesticated under a feigned name. She was at last settled in the family of a respectable clergyman of the Established Church in Wales. Her manner was engaging in character, as well as in person. She is described as having been very attractive. The clergyman did not know her real name, or the history of the interesting being domiciled under his roof. For obvious reasons he was kept in error by the friends of the young lady. The termination of her adventures was not the least remarkable fact in her romantic story. She was very much liked by the clergyman's family, and her conversational powers are described as being of a high order. Her own extraordinary adventures were, on one day, the theme of her narrative powers. She told the clergyman, under feigned names, the whole history of her life, and described, as belonging to the history of another person, the feelings which she had herself experienced, and the incidents which had occurred to her. The delineation, as might be supposed, was highly wrought and spirited. It moved the clergyman exceedingly, and he expressed the

deepest pity for the victim painted by Miss King. While he was so expressing his feelings, Miss King suddenly revealed to him who she was—'I am that very person for whom you have expressed so much interest.'

"The clergyman was astonished at the intelligence, and showed at first more surprise than pleasure at the information. Miss King repented of her frankness, as she thought it likely that she would be removed to another abode. She told the clergyman that she supposed, after that information, he would not permit her to continue an inmate of his household. He disclaimed such an intention; he saw that the young lady was 'more sinned against than sinning,' and he felt sincere compassion for her sufferings, and sympathy for her misfortunes. In many cases—especially where the sex is concerned, 'pity is akin to love.' It was so in the present instance, and the adventures of Miss King were finally closed more happily than might have been augured from their commencement. She was soon after married to this clergyman, and lived with him a very happy and exemplary life. She died several years ago in Wales."

CHAPTER XI.

Mr. Burton.—Mr. Quin.—Mr. Lysaght.—Mr. Keller.—Mr Harry Deane Grady.—Mr. Thomas Grady.—Mr. Richard Pennefather.—Mr. Thomas Goold.—Mr. Waggett.—Sir William MacMahon, Bart.

At the opening of the nineteenth century the Munster bar comprised a number of singularly able men. Curran, of course, was the chief; next came, if not in point of standing, certainly in point of ability, Charles Burton. He was an Englishman by birth, and while some investigation respecting the intricate title to an estate in Ireland, then for sale, brought Mr. Burton, a law clerk in an English solicitor's office, to Dublin; he came in contact with Curran, who was at once captivated with the young Englishman's legal acquirements, and modest demeanour. Curran saw the great advantage he would derive by securing Mr. Burton's aid in noting his briefs and supplying his legal arguments. He accordingly made overtures, which Mr. Burton readily acceded to. Curran had no reason to repent his selection. Fond of pleasure, delighting in society, and never a very profound lawyer, he found in Mr. Burton one he could implicitly confide in. Thus Curran's opinions on cases were soon distinguished by a clearness and depth of legal learning they never displayed

before. In the admirable "Sketches from the Note-Book of an Irish Barrister," which appeared very many years ago in the London *Metropolitan Magazine*, the gifted writer mentions the following anecdote:—"We heard an eminent solicitor say that he was once despatched with a very heavy brief, in a very important cause, to Curran, who was then circulating his flashes of wit and merriment at a dinner-table, and he wrote with a pencil on a slip of paper, 'Carry the brief to Mr. Burton, *but I will thank you for the fee.*' The attorney did so. Mr. Burton happened to be also at dinner—a very light one, a small roll, coffee, and an egg or two. He had companions, too, in the shape of a pile of law-books, which he consulted alternately with a draught of the sober berry's decoction.

There is no doubt Mr. Burton's well-known services to Mr. Curran were a great introduction for him. He was called to the bar Michaelmas term, 1792, and soon after joined the Munster Circuit. Had it not been for this connexion with Curran, I can hardly suppose he would have had the courage to come, as a stranger to the land and the people, amongst the members of the Munster Circuit. But they soon learned to appreciate the little Englishman. The circuit business is usually more difficult of attainment than that in Dublin. Family ties, long association, private friendship, often direct the briefs in cases on circuit, and it is to Curran's influence Mr. Burton probably owed his ready acceptation by the practitioners of Munster. It is said that a fishery case, bristling with difficult sections of Acts of Parliament, tried at the assizes for Kerry, first brought Mr. Burton to the front. He held the

junior brief, and had made himself well up in the law of the intricate case. As sometimes happens, when the case was called, Mr. Burton's leader was engaged elsewhere, and the second counsel, though an excellent judge of fish on the dinner-table, was not equally at home with the Fishery Acts. To his great relief, therefore, he soon ascertained that his unknown junior was a powerful and efficient support. He evinced his opinion of Mr. Burton's skill and legal acumen in this particular branch of legal learning so highly, that he entrusted him not only with the conduct, but the arguing the case. The admirable manner in which the young lawyer acquitted himself made such an impression upon the Kerry attorneys, that Mr. Burton was always in great request at all future assizes of Tralee.

The fishery case did not end there. Points saved were argued in the King's Bench, Dublin; and here again Mr. Burton greatly added to his reputation. He was much admired for the closeness of his reasoning, the clearness of his statements, the aptitude of his cases in point. He soon was recognized as one of the leaders of the Munster Circuit.

Another eminent member of the Munster Circuit in 1800 was Mr. Quin. Solemn, dramatic, melancholy, but learned, earnest, and eloquent, "he was," says Madden, "a grave elocutionist, and delivered his speeches in the stately style of Kemble playing Cato. In some cases he was most imposing and effective; but his style was too tragic for the every-day cases of the bar. In the case of a Higgins or a Murphy he was as grand in his manner as if the house of Atreus were his clients. In stating a case in trover you were reminded

of the soliloquy in *Hamlet*. I know not whether he was a distant relative or connexion of his namesake, the celebrated actor; but certainly the King's Counsel of the Munster Bar had all the air of a stage-taught and perhaps a stage-struck lawyer. Like his namesake, the great actor, he was heavy and monotonous. The actor and the advocate both wanted variety. Horatio, Dorax, Falstaff, still was Quin. Quin's business was not of a very enduring character, and it is said an opinion he gave, during a Cork election, which was wrong, caused him to lose a great share of his civil business. As a crown prosecutor, of course he was not subject to the caprice of fortune, and the misdemeanants who figured in the calendar of prisoners during each assizes he attended, found their depredation upon purses and pockets, their head-breaking and felony, publicly prosecuted in a lofty style which would well have suited the bar of the House of Lords.

In contrast to Quin, wide as the poles asunder, may be named Ned Lysaght and Jerry Keller. Full of fun, frolic, *bon mot*, jest, they were the delight of the bar mess, and preferred the social board to the board of green cloth on which witnesses were placed. Lysaght was a native of the county of Clare, born at Brickhill in 1763. He first intended applying himself to practise as a barrister in England, and was called to the English bar in 1798, and in the same year to the Irish, and had some practice in Westminster. But the steady, technical, and matter-of-fact habits of the English courts were not suited to the jovial, social temperament of the devil-may-care Clare man. He told a friend "he had not law enough for the King's Bench,

he was not dull enough for the Court of Chancery, and that before he could make way at the Old Bailey, he must shoot Garrow (then the most celebrated practitioner in criminal cases), which would be very unpleasant to him."

Accordingly Ireland became the scene of his labours, and her politics the theme of his ready pen.

He got business on circuit, but was never in much repute as a lawyer. He laughed an opponent out of court rather than overthrew him by legal weapons. He was great at the bar mess, full of anecdote and epigram.[1]

He left the circuit in 1810. He was then appointed one of the divisional magistrates of the city of Dublin, but he was not destined long to enjoy the emoluments of office. He died that same year, leaving a widow and three daughters. One became the wife of the Right Rev. Dr. Griffin, Lord Bishop of Limerick.

As a substantial proof of the respect felt for him and his amiable family by the bench and bar of Ireland, the very handsome sum of 2484*l.* was subscribed for them. John Lloyd and Peter Burrowes were the treasurers, and received a very grateful expression of thanks from the widow and her daughters for their attention during the collection of this fund.

Mr. Keller, or Jerry, as he was generally called, was one of the celebrities of the Munster bar. I am told by those who were personally acquainted with him, he had the most mirth-provoking countenance ever seen, and this, added to the natural drollery of the man,

[1] For many anecdotes, *vide* "The Irish Bar," pp. 205—213.

must have been irresistible. With his son and daughters I was very intimate, and they presented a strong contrast to their sire, for the son was grave, and the daughters serious—almost puritanical in their manners.

The earliest anecdote I have of Keller is connected with the birth of Thomas Moore. This occurred on the 28th May, 1779. A young barrister who lodged in the house of the grocer, Mr. Moore, in No. 12, Aungier-street, the corner of Little Longford-street, Dublin, invited a few choice companions, Jerry Keller being one, to dine with him on that day. When they had assembled and dined, and were disposed to enjoy a convivial evening, the servant announced "that Mrs. Moore was confined, and the baby was a son." Thereupon the young host very considerately proposed an adjournment of the party to a neighbouring tavern, where they could indulge their merriment without disturbing the lady of the house. This met a ready approval. "Quite right," said Keller, "that we should adjourn *pro re nata.*"

Keller was appointed executor to the will of Mr. Byrne, a very eminent shoemaker in Dublin. The affairs were somewhat complicated, so that an equity suit was necessary for the administration of the assets. Keller, being asked "in what capacity he would sue," replied, "Of course I'll *shoe* as *sole* executor."

Mr. Amory Hawksworth, a very distinguished member of the Munster Circuit, having made objection to evidence offered by Keller, sustained his objection by very good argument. Judge Finucane said, "What reply do you make to that, Mr. Keller?"

"This, my lord," replied the wag,—

"Amory Hawkesworth! Amory Hawkesworth!
Little your talk! little your talk's worth."

There were two Gradys, besides the Chief Baron O'Grady, at the bar, and of these HARRY DEANE GRADY had great repute on the Munster Circuit. He was low-sized, had a rubicund countenance, with a stentorian voice that almost blew a witness out of the chair. He was by far the most able cross-examiner in the circuit. He delighted in tackling an obtuse-looking, but really sharp-witted peasant, who had made up his mind to tell as little against his side as he conveniently could. With such a witness Harry Deane Grady played, as a practised angler with a stubborn fish. He gave him line enough, and, with a "Just so," "Quite right," "Exactly," lured the witness into the notion he was outwitting the counsellor; but all this time Harry Deane Grady was winking knowingly at the box containing the important twelve with his *jury eye.*

The other Grady was Thomas, so very near-sighted he read with difficulty, and was called "Spectacle Grady." He also was a wit, but not so popular as either Keller or Lysaght, for his wit was steeped in venom, and he had once to pay dearly for it. He wrote the fiercest satire ever penned, as we shall have occasion to see later on, when his poem "The Nosegay," subjected him to an action for libel at the suit of Mr. Bruce of Limerick. Tom Grady was one of the minority of the Irish bar who supported the Union, and, if reliance is to be placed upon Sir Jonah Barrington, delivered the singular speech at the bar

meeting, held in the Exhibition Room, in William-street, Dublin, on the 9th December, 1799.[2]

Mr. Grady was appointed an assistant barrister by Lord Clare, but he did not continue to practise at the bar. Satire was his *forte*, and he wielded a scathing pen.

Another of the most eminent members of the Munster circuit was RICHARD PENNEFATHER. He was born in 1773, and his equally distinguished brother, Edward, a year later. Their father, Major Pennefather, was member for Cashel. Richard's career in Trinity College was distinguished by his taking an *optime*. Both these famous lawyers were called to the Irish bar in 1795, when Richard went the Munster Circuit. He was pre-eminent in his professional career, and justly regarded one of the leaders of the Munster bar, while he continued on circuit. His elevation to the Exchequer bench being already recorded by me in "The Irish Bar," it is unnecessary to relate it here.[3] Suffice it to say, the talents and learning which procured him large practice at the bar shone with increased lustre on the bench for many years.

THOMAS GOOLD was a very celebrated member of the Munster Circuit. He was of an old and distinguished county of Cork family, and had great personal recommendations. He was born about the year 1770, and early acquired a name in literature. When the Right Hon. Edmund Burke published "Reflections on the French Revolution," a host of critics violently attacked

[2] *Vide* "The Irish Bar," p. 128.
[3] *Ibid.* p. 291.

his work. Mr. Goold, who, while in Paris, witnessed some of the horrors of the Revolution, felt able to undertake a "defence" of Mr. Burke's book. He wrote ably and successfully, and made a friend for himself in the great statesman. On being called to the bar, Mr. Goold obtained practice at *nisi prius*, and was one of the most unflinching opponents to the Union. He made a vehement speech at the bar meeting already referred to, and concluded in most impressive words.

Goold soon got into extensive practice on the Munster Circuit, and was sure to be retained in all important cases. He was appointed a serjeant-at-law in 1823, and for the ensuing nine years conducted crown business, and was a leader on the Munster Circuit. He was a most able and eloquent advocate.

He continued on the circuit until 1832, when he was appointed a Master in Chancery. He died in 1846.

William Waggett, Recorder of Cork, was for many years in great repute on the Munster Circuit. He always attended the assizes of Limerick and Cork, and in all cases where appeals to the passions were to be made, was sure of a brief.

He had been called in 1798, and was shortly elected Recorder of Cork. A very great proof of his disinterestedness in regard of money is so creditable that I give it room here, though it did not take place until the year 1816.

Mr. Waggett had discharged the duties of Recordership by deputy until 1815, when his deputy, Mr. Wilmot, dying, he went to Cork to reside. Upon

which, at a Court of D'Oyer Hundred, held at the Guildhall, Cork, on the 24th June, 1816, it was resolved:—

"That in consequence of our respected and worthy Recorder, William Waggett, Esq., having given up his attendance at the superior courts of law for the last twelve months, and entirely devoted his valuable time to the labours in discharge of his duty as Recorder, personally, it is peculiarly incumbent on the Court to make some adequate remuneration for such a sacrifice to the public good, and that the Council should be requested to make an order that the Recorder should be paid the sum of 500*l.* out of the Corporation revenues, to be annually continued whilst he shall so devote his time in discharging the duties of that important office."

This very considerate and proper proceeding on the part of the Corporation of Cork produced the following letter, addressed to the Mayor, from the Recorder:—

Cork, June 25th, 1816.

"My dear Sir,—I beg leave to trouble you on the subject of the resolution passed at the Court of D'Oyer Hundred on Monday, by which a large sum of money was voted to me. When I sought for the honour of being elected Recorder of this city, I formed a determination not to accept of any remuneration for performing the duty of the office, beyond the salary and ordinary emoluments enjoyed by my predecessors. Many reasons combine to prevent me from departing from such a resolution. You will, therefore, much oblige

me by communicating to the freemen, at the opening of the Court on Thursday, that I feel the deepest gratitude for their good opinion, and wishes to serve me, but must most respectfully, yet firmly, decline the boon which their kind, yet excessive liberality would bestow.

"I hope I shall not be thought presumptuous in requesting that the resolution be rescinded, and not sent up to the Council.

"I have the honour to be,
"My dear Sir,
"Your obedient Servant,
"Wm. Waggett, Recorder.
"To the Right Worshipful the Mayor."

The letter of the Recorder was duly laid before the Court of D'Oyer Hundred, on the 27th June, when it was unanimously resolved:—

"That so disinterested and honourable a letter should be entered on the records of the Court, and that the above proceedings should be published in the Cork and Dublin papers.

"By the Court,
"W. Jones, Town Clerk."

I possess several pleadings and cases written on by Mr. Waggett, all showing his great ability as a lawyer. He became latterly very eccentric in his habits, and careless in dress. He died at a very advanced age.

I might swell my catalogue with notices of Messrs.

Hoare, Townsend, White, FitzGerald, Franks, Lloyd, and other eminent members of the circuit, but I prefer now relating some of the remarkable trials which employed their abilities, their learning, and their eloquence. Before doing so I must mention Mr. William MacMahon, who rose to the dignity of Sir William MacMahon, Bart., Master of the Rolls, and who was a very eminent member of the Munster Circuit. He was son of John MacMahon, Esq., patentee, comptroller of the port of Limerick, by Mary, daughter of James Stackpole, Esq., of Cork. He was born in 1776, and was called to the bar, joined the Munster Circuit, on 23rd April, 1805; he was appointed third Serjeant, on the resignation of John Philpot Curran, as Master of the Rolls in 1814. Serjeant MacMahon was raised to the judicial bench as Master of the Rolls, sworn in as Privy Councillor, and created a Baronet on 6th May, 1815. He continued to preside over the Rolls until his death in 1837, when he was succeeded by the eminent Baron, Sir Michael O'Loghlen. It is related that when addressing the juries on circuit Serjeant MacMahon was accustomed to scatter showers of saliva very unpleasantly upon his neighbours in the bar seats. This coming very unexpectedly in Cork upon the head of the late Sir John Franks, who sat next to William Henn, the latter observed, "John, I thought we were near the Cove of Cork, but it is plain we are within reach of *Spit-head.*"

It is also related that the learned Serjeant, who was very fluent, did not care so much about sense as sound, and used to confuse language strangely in his efforts to be sublime. As for example:—"Gentlemen of the

jury, I smell a rat—but I'll nip it in the bud." On another occasion he said, "My client acted boldly. He saw the storm brewing in the distance, but he was not dismayed. He took the bull by the horns, and he *indicted him for perjury.*"

CHAPTER XII.

Remarkable trial of Sir Henry Brown Hayes for abduction of Miss Pike.

THE trial of Sir Henry Brown Hayes for the abduction of Miss Pike took place at the Cork Spring Assizes, on the 13th April, 1801, before Mr. Justice Day. A very numerous and able bar appeared on both sides.

The counsel for the prosecution were Messrs. Curran, Hoare, Townsend, Goold, Burton, Waggett, and Wilmot; attorney, Mr. Richard Martin.

The counsel for the prisoner were Messrs. Quin, Keller, White, Grady, Fitzgerald, Hitchcock, Franks, and Dobbin; attorney, Mr. Fleming.

Two indictments were found by the grand jury—one for the abduction, another for procuring it; but, on coming into court, the counsel for the Crown quashed the second indictment, and went to trial upon the first. This contained two counts—one for abduction with intent to marry, the other with intent to defile. The case is fully detailed in Mr. Curran's speech, which was as follows:—

"My Lord, and Gentlemen of the Jury,—It is my duty, as one of the counsel in this prosecution, to state to you such facts as I am instructed will be established by evidence, in order that you may be informed of the

nature of the offence charged by the indictment, and be rendered capable of understanding that evidence, which, without some previous statement, might appear irrelevant or obscure.

"This is an indictment against the prisoner for having feloniously carried away Mary Pike, with intent, against her will, to marry her; there is another charge also, that he did feloniously carry her away with intent to defile her."

Having stated the alterations in the law to meet the difficulty of procuring evidence in these cases, and that the offence was capital—for taking away with intent to marry or defile, although in fact no marriage or defilement took place, was punishable with death—and, referring to the seriousness of the offence, Mr. Curran continued: "I will now state to you the facts, as I am instructed they will appear to you in evidence. The prisoner at the bar (and, considering his education, his age, rank, and situation in society, I do regret, from my soul, that he is there) married many years ago; his wife died, leaving him the surviving parent of, I believe, many children. Miss Mary Pike is the only child of a person whom, I suppose, you knew as Mr. Samuel Pike, of this city. He had devoted a long life to a very persevering and successful industry, and died advanced in years, leaving this, his only child, entitled to all the fruits of his laborious and persevering application. The property she is entitled to, I understand, is very great indeed. At the time of the transaction to which your attention must be called, she was living in the house, and under the protection, of an universally respected member of society, Mr. Cooper

Penrose. From the moment her mind was susceptible of it, no expense was spared to give her every accomplishment that she was capable of receiving; and in the house of her own father, while he lived, and in the house of Mr. Penrose, when she came under his protection, her mind was framed to the most correct principles of modesty, and delicacy, and decorum, with these additional characteristics, humility and reserve, that belong to that most respectable sect of which her father was a member. The prisoner at the bar, it seems, had heard of her, and had heard of her property; for it is a material circumstance in this case that he never, by any accident, had seen her, even for a moment, until he went to see and indentify her person and mark her out the victim of his projected crime. Some time before the 22nd of July, 1797, he rode down to the residence of Mr. Penrose. Mr. Penrose has a country house, built in a very beautiful situation, and which attracts the curiosity of strangers, who frequently go to see it. The prisoner at the bar went into the grounds as one of these, and seemed to observe everything with great attention. Mr. Penrose immediately came out to him, and conducted him to whatever objects he supposed might gratify his curiosity. He affected to be much entertained; he lingered about the grounds until the hour of Mr. Penrose's dinner approached. Mr. Penrose, quite a stranger to the prisoner at the bar, was not, I suppose, very anxious to invite a perfect stranger in among his family. However, with that good nature which any man of his cordial and honest turn of mind will feel it his duty to exercise, he did invite Sir Henry Hayes to dinner.

The invitation was accepted of, and thus the first step towards the crime he meditated was an abuse of the sacred duty which the hospitality of his host imposed upon him as a man and a gentleman. He made his observations and took his departure; but it was not a departure for the last time.

"Mrs. Pike, the widowed mother of the prosecutrix, was then in Cork in a dangerous state of health. In order to get Miss Pike out of the hands of her protector, a stratagem was adopted. Dr. Gibbings was the attending physician upon her mother—it does not appear that the prosecutrix knew the handwriting of Dr. Gibbings—but it was necessary that a letter should be sent, as if from Dr. Gibbings; but, to do so with effect, it was necessary that a letter should be written to Mr. Penrose in a handwriting having such a resemblance to the doctor's as might pass for genuine. To qualify himself for this, the prisoner made some pretext for sending a written message to Dr. Gibbings, which produced a written answer from the doctor. Thus was he furnished with the form of the doctor's handwriting, which he intended to counterfeit; and, accordingly, there was written, on the 22nd of July, 1797, a letter so like the character of Dr. Gibbings that he himself, on a slight glance, would be apt to take it for his own. It was in these words:—

"'Dear Sir,—Our friend Mrs. Pike is taken suddenly ill; she wishes to see Miss Pike. We would recommend despatch, as we think she has not many hours to live.—Yours, 'ROBERT GIBBINGS.'

"Addressed to Mr. Cooper Penrose."

"The first step to the crime was a flagrant breach of hospitality; and the second, towards the completion, was the inhuman fraud of practising upon the piety of the child, to decoy her into the trap of the ravisher, to seduce her to destruction by the angelic impulses of that feeling that attaches her to the parent—that sends her, after the hour of midnight, from the house of her protector, to pay the last duty and to receive the parting benediction. Such was the intention with which the prosecutrix on a rainy night, between one and two o'clock in the morning, rose from her bed. Such was her intention; it was not her destination. It was not to visit the sick-bed of a parent; it was not to carry a daughter's duty of consolation to her dying mother; it was not for that she came abroad. It was that she might fall into the hands of preconcerted villany; that she should fall into that trap which was laid for her, with the intention to despoil her of everything that makes human existence worth the having by any female who has any feeling of delicacy or honour. I should state to you that she left the house of Mr. Penrose in his carriage, attended by two female relatives, one of them his daughter, and when they had advanced half way to Cork, the carriage was suddenly met by four or five men. They ordered the coachman to stop. One of them was dressed in a great-coat and armed with pistols, and had the lower part of his face concealed by tying a handkerchief round it.

"The ladies, as you may suppose, were exceedingly terrified at such a circumstance as this. They asked, as well as their extreme terror would permit, 'What they sought for?' they were answered, 'They must be

searched.' On looking about, they perceived another chaise stationed near the place where they were detained. It will appear to you that Miss Pike was taken forcibly out of the carriage from her friends; that she was placed in the other chaise I have mentioned, in which she found—shame to tell it!—a woman. The traces of Mr. Penrose's chaise were then cut, and the ladies that came in it left, of course, to find their way as well as they could, and return in the dark.

"The carriage into which the prosecutrix was put drove off towards Cork; the female who was with her will appear to you to have been the sister of the prisoner. Happy for her that death has taken her away from being the companion of his trial and of his punishment, as she was the accomplice of his guilt; but she is dead. The carriage drove on to the seat belonging to the prisoner, called Mount Vernon. At the bottom of the avenue, of considerable length, the horses refused to go on, upon which the prisoner rode up to the chaise, dismounted, opened the door, took the prosecutrix out, and carried her, struggling in his arms, to his house. When he arrived there, he carried her upstairs, where she saw a man attired like a priest, and she was then told that she was brought there to marry the prisoner. Then whatever sort of ceremony they thought right to perform took place; something was muttered in a language which she partly did not hear and partly could not understand; she was then called his wife, then Lady Hayes. A letter was then to be written to apprise her miserable relatives of their new affinity. A pen was put into her hand, and she consented to write, in hopes it might lead to her deli-

verance; but when the sad scrawl was finished, and the subscription only remained, neither entreaties nor menaces could prevail upon her to write the odious name of the ravisher. She subscribed herself by the surname of her departed father.

"My Lord, and Gentlemen of the Jury,—You will soon see the young lady. You will see that, whatever grace of proportion her person possesses, it does not seem formed for much power of resistance or self-defence. But there is a last effort of sinking modesty that can rally more than the powers of nature to the heart, and send them to every fibre of the frame—when they can achieve more than pure vulgar strength can do upon any occasion. That effort she did make, and made it with effect; and, in that instance, innocence was crowned with success.

"Baffled in his purposes of force, he sought to soften, to conciliate. 'And do you know me?' said he. 'Yes,' answered she, 'I do know you; I do now remember you did go to my cousin, as you say you did. I remember your mean intrusion. You are Sir Henry Hayes!'

"She remained in this captivity until her friends got intelligence of her situation. Justice was applied to; a party went to the house of the prisoner for the purpose of releasing her. The prisoner had fled. His sister, his accomplice, had fled. They left behind them Miss Pike, who was taken back to her relatives. Information was lodged immediately; the prisoner absconded; Government was apprised, and felt as it ought. By proclamation, a reward was offered for the apprehension of the prisoner. The family of Miss

Pike also offered a considerable sum in addition. For some time he kept in concealment; the rewards were offered in vain; the prisoner was outlawed, but soon reappeared in Cork.

"While Sir Henry Hayes was appearing at large, Miss Pike fled to England, where she remained for two years.

"A few months ago, previous to the last term, a letter was sent to Miss Pike by the prisoner. The purport of it was to state that his conduct had been honourable and delicate, and asserting that any lady could not be so sanguinary as to wish for the blood of an individual, however guilty; intimating a threat that her conduct upon this occasion would work her fate through life; desiring her to withdraw her advertisement; saying he would abide his trial at the Assizes of Cork; boasting his influence in the city in which he lived; thanking God he stands as high as any man in the regards of rich and poor, of which the inefficiency of her present and former rewards must convince her.

"The outlawry was reversed without opposition by the counsel for the prosecution, because their object was to admit him to plead to the charge, and take his trial by a jury. He pleaded to that indictment, and now stands at the bar of this Court for the purpose of trial.

"The publicity of his living in this city during two years did so impress the minds of the friends of this unhappy lady with despair of obtaining justice, that they did struggle hard to try the offence at a distant place, in the capital, where the authority of the Court might keep public justice in some sort of countenance. That

application was refused, and justly did you, my lord, and the learned judges, your brethren, ground yourselves upon the reason which you gave. 'We will not,' said you, 'give a judicial sanction to a reproach of such a scandalous atrocity upon any county in the land, much less upon the second city in it.'"

Having referred to the abduction of the Misses Kennedy,[1] Mr. Curran continued:—

"I am glad that the Court of King's Bench did not yield to the despair which had taken place in the minds of those who were anxious to bring the prosecution forward. I am glad the prisoner was sent to the bar, in order that you may decide upon it."

Mr. Curran then applied himself to the evidence necessary to sustain the indictment under the statute. Having done so, he thus concluded his opening statement: "Once more, and for the last time, let me state to you, you have heard the charge. Believe nothing upon my statement. Hear and weigh the evidence. If you doubt its truth, acquit without hesitation. By the laws of any country, because by those of eternal justice, doubt and acquittal are synonymous terms. If, on the other hand, the guilt of the prisoner shall, unhappily, be clearly proved, remember what you owe to your fame, your conscience, and your country. I shall trouble you no further, but shall call evidence in support of the indictment, and I have not a doubt that there will be such a verdict given—whether conviction or acquittal—as may hereafter be spoken of without kindling any shame in yourselves or your country."

[1] *Ante*, p. 87.

Before the witnesses were examined, Mr. Curran requested the judge would not allow any person to stand with the prisoner at the bar.

Mr. Quin, on behalf of the prisoner, had no desire that his friends should stay by him, but mentioned that when Horne Tooke was tried, he was attended by his counsel. Mr. Justice Day said: "The prisoner should have that privilege when he came to make his defence; but, for the present, all, save his attorney and one of his counsel, were ordered to withdraw from the bar."

There was great sensation in Court when Miss Pike came upon the table to give evidence. She was at first a little agitated, but soon regained her self-possession, and detailed the case as stated by counsel. I give some extracts from her examination on the direct, and when cross-examined. To the questions of the counsel for the prosecution she detailed as follows:—

"How did you get into his house?"

"He took me in his arms into the parlour."

"What happened after you got into the house? Were there lights in the parlour?"

"There was a snuff of a candle, just going out."

"Miss Pike, be so good as to tell what happened after you got into the parlour. Did any other person make their appearance?"

"Yes; two women."

"Did you see anybody else in the house that night, but Sir Henry Hayes and the two women?"

"I did not until the next morning."

"Did you see any person in that house at any time after?"

"Yes, a man in priest's habits."

"Was it at night or next morning?"

"It was next morning."

"At break of day?"

"Yes."

"Did anything particular happen then?"

"Before that I was forced upstairs."

"By whom?"

"Sir Henry Hayes and his sister."

"After you were forced upstairs, did anything particular happen?"

"Before that, there was a kind of ceremony read, and they forced a ring upon my finger. Before I was taken upstairs there was a kind of ceremony of marriage, and a man appeared dressed in the habit of a clergyman."

Mr. Justice Day: "You said something about a ring?"

Miss Pike: "A ring was attempted to be forced on my finger, which I threw away."

Counsel: "After you were forced upstairs, and after this kind of a ceremony of marriage was performed, did anything particular happen upstairs?"

"I was locked into a room."

"What sort of a room?"

"A small room with two windows."

"What happened after that? Do you recollect anything more?"

"There was tea brought up, and after that Sir Henry Hayes came up."

"After Sir Henry Hayes came up, did anything happen?"

Judge: "It is now about four years ago, and therefore mention only what you remember."

Miss Pike: "I remember his father coming up."

Judge: "Was the room furnished or unfurnished?"

Miss Pike: "There was a bed and a table in it."

Counsel: "Do you recollect anything that passed after Sir Henry's coming up; and, if you do, state it to the Court?"

Miss Pike: "I recollect perfectly his coming in and out, and behaving in the rudest manner, and saying I was his wife."

"Were you restored shortly after?"

"About eight o'clock next morning."

"Was or was not any part of that transaction between you and Sir Henry Hayes with your consent or against it?"

"Against it, entirely."

"While at Mount Vernon, did you write anything?"

"Yes; I wrote a note to my uncle to let him know where I was."

Miss Pike was cross-examined by Mr. Quin. He asked the following questions:—

"Can you swear, that at the time you knew any one of the persons who took and carried you away from that part of the Glanmire road where you were stopped?"

"No; I cannot."

"Your uncle mentioned something as you went along of the necessity of giving immediate information —did he not?"

"He did."

"When did you give the informations?"

"The Monday morning following."

"Do you recollect what day of the week it happened?"

"I believe Saturday."

"And you gave the informations on Monday?"

"I did."

"Where did you swear them?"

"At my aunt's."

"Who drew them out?"

"I do not know who wrote them."

"Do you recollect whether you swore in the informations that Sir Henry took you away on the Glanmire road?"

"I believe I did not."

"Was there any interposition used with you to induce you to come into Court this morning?"

"No, there was not."

"Did any person describe the dress or person of Sir Henry Hayes to you before you came into Court?"

"No, sir."

"Will you now say, upon your oath, that if, at the time you came into Court and sat upon the table, you were asked the question, that you could have said positively you knew Sir Henry Hayes?"

"No, I could not; because he might have been very much disguised."

The witnesses to other facts for the prosecution were Mr. and Miss Penrose, Dr. Gibbings, and Mr. Richard Pike. When the case for the prosecution closed, Mr. Quin very ably addressed the jury on behalf of the prisoner. He laboured strongly to prove the insufficiency of the evidence under the statute of abduction, and commented upon the quashing of the second indictment, showing the counsel for the prosecution

were unable to sustain it. There were no witnesses produced for the defence, but Mr. Curran replied. He said: "It is the undoubted privilege of the Crown to reply in all criminal cases, not only to a point of law; but, if the prisoner's counsel speak to evidence, the Crown is warranted to reply. I might by law have prevented such speaking altogether, but I will never oppose such indulgence to a prisoner. I feel myself bound to answer objections in point of law, as the evidence for the prosecution has not been controverted. Much has been said about that indictment which has been quashed; the observations on that, as far as they go, are a complete answer to themselves. It is undoubted law, that if a man be indicted as a principal, and acquitted, and afterwards indicted as an accessory before the fact, that the former acquittal is a conclusive plea in bar. The law is clearly settled in that case, and an acquittal upon the present indictment would be a complete bar to any prosecution upon the second; therefore it was that the second indictment was quashed. We sent up that indictment, in fact, because we did not, with precise exactness, know how the evidence would turn out upon this trial. The second indictment was a mere charge of accessorial offence; but feeling that, to bring forward the real merits of the case, we should go upon the first indictment, we thought it would be an act of unwarrantable vexation not to apprise the prisoner, the Court, and the jury that that was the only charge against him." He then argued as to the sufficiency of the evidence to sustain the charge of abduction. "What is a taking and carrying away?" He showed how the prisoner visited at Mr. Penrose's

house in order to be able to identify the prosecutrix, and the prisoner taking her in his arms from the foot of the hill at Mount Vernon. He distinguished the cases cited by Mr. Quin as having no bearing on this case. One was a burglary, the other murder. He distinguished the case of the King and Lipyard, in which a lady's earring, though forced from her ear, was found in her curls, and there was held not a sufficient carrying away. But when a man in an inn stole the sheets off his bed and took them to a stable, where they were removed by an accomplice, the taking and carrying away was held complete. Miss Pike was taken by force out of the chaise; she was taken by force up the avenue; she was taken by force into a room. Every fact, if the jury believed the evidence, was by force and against her consent. "Let me remind the jury, that such an idea as this ought not to go abroad —that a gang may be hired by a man to force away a woman, and that that man, meeting her in the last stage of the transaction, shall completely commit a felony, against the statute, with impunity."

Judge Day then charged the jury very clearly. They retired to their room, and, after an hour's deliberation, returned into Court with a verdict of guilty, but with a recommendation for mercy. The law points, taken by the prisoner's counsel to the insufficiency of the evidence to sustain the indictment, were referred to the twelve judges, who decided against the prisoner. The recommendation to mercy was attended to in procuring a commutation of sentence from death to exile, and the prisoner was transported.

CHAPTER XIII.

The Murder of Colonel Hutchinson.—Conviction and Execution of the Murderers.

About the commencement of the present century a terrible murder took place in the neighbourhood of Macroom, in the county of Cork. A house, built on a rising ground, with a well-wooded lawn in front, dotted by clumps of wide-spreading trees, was called Codrum House. It was then occupied by Colonel Hutchinson and his maiden sister. The gentleman, then advanced in years, had commanded a corps of volunteers in the patriot army of 1782, and retained his military rank long after the corps he commanded had ceased to bear arms. He was much liked in the country, as a just and upright magistrate, a kind and considerate master, a fair and liberal employer. In the month of May, in the year 1800, Miss Hutchinson was aroused from sleep by hearing a smashing of glass, as if a window was broken in; she then heard a noise, as of several men rushing into the house. Quite terrified, she remained in a state of alarm, until the sound of departing footsteps informed her the intruders had departed. She then ventured forth; there was the light of the summer morning illuminating the hall and stairs. At the foot of the stairs lay the body of a man. There

was blood flowing from the side of the prostrate form; sick at heart she descended the stairs and beheld the bloody corpse of her beloved brother, Colonel Hutchinson.

Her shrieks brought up a servant man, named Reen, who declared he had not heard any noise, as he was very deaf, and went at once to give the alarm. The place was soon filled with the neighbours, who were loud in the denunciations of this murderous deed. They found a large kitchen window broken open, and quite shattered.

There was no more damage done to the house; no articles were taken; the locks were uninjured; chests of drawers, desks, writing-cases—all were untouched. Neither money or goods were taken.

An inquest was held on the body of Colonel Hutchinson. A small hole was found near the heart, from which the life-blood oozed away. The blood saturated the clothes. There was no evidence to throw suspicion on any one in particular, so "Wilful murder by some person or persons unknown," was the verdict of the coroner's jury. Who had done the bloody deed? The gentry of Muskerry were resolved never to rest until the question was fully and satisfactorily answered. An active corps of yeomanry, which comprised men of all ranks and creeds, left no stone unturned to hunt out the perpetrators of this deed. Among them a Mr. McCarthy, who held the rank of sergeant in the corps, was one of the most active.

Suspicion of knowing much of the melancholy fate of the murdered colonel attached to a man named Malachy Duggan, who resided in the neighbourhood of

Macroom. He was a man of dissolute habits, fond of drink, quarrelsome, and noted for a turbulent, riotous disposition. He was of more than ordinary strength and ferocity. His influence with the country people was very great, he was considered the head of the Whiteboys of the district, and Mr. McCarthy was positive Duggan planned the attack on Codrum House, which led to the death of Colonel Hutchinson. Actuated by this belief, Mr. McCarthy proceeded to Duggan's farm, and then and there arrested him for the murder.

Duggan treated the charge as ridiculous, and made light of it. "It is no light matter," said Mr. McCarthy; "and as you may have to remain in gaol for some time, better give some directions about your farm." This made Duggan alter his tone. "Do you think there is anything agin me, Mr. McCarthy?" inquired Duggan eagerly.

"Plenty," said McCarthy, gaining confidence from the change in Duggan's manner. He then prepared to accompany the patrol of yeomanry, and as there was some distance to Macroom from his farm, he mounted his horse to ride. Mr. McCarthy noticed he cut a willow rod as a riding switch when leaving his house, and, while brooding over what he had to undergo, he commenced unconsciously biting the wand. Some idea of the fretful mood of the man may be imagined from the fact that before Macroom loomed in sight Duggan had nibbled the wand into bits.

The magistrate to whom Duggan was brought informed him that a sum of three hundred pounds was to reward any one who informed upon the murderers,

and contributed to prosecute them to conviction. This induced Duggan to offer such information as would convict the gang, of which, as Mr. McCarthy surmised, he was the leader.

There were no less than fourteen engaged to rob Codrum House. They were brought to the place by Duggan. They broke in the kitchen window and got into the hall. It appeared that Colonel Hutchinson had not retired to rest, and, to the surprise of the gang, came down stairs on hearing the noise of their entrance. Unluckily one of the gang was his gamekeeper, another McCarthy. "What!" cried the colonel, "are you here, McCarthy?" This sealed his fate. The gang saw they were recognized; Duggan gave the order: "McCarthy, do your duty." The fowling-piece, the property of Colonel Hutchinson, in the hands of his servant, was the weapon which caused that gentleman's death. When the colonel lay dead at the stair-foot, fear fell upon the gang; they had not courage to proceed further, and they fled. No arrests were made until after Malachy Duggan was taken before the justice of the peace in Macroom, and gave his information. Then the gang dispersed. Some fled to the mountains of Kerry and to the rocks and precipices of Bere and Bantry; but six of the fourteen were captured and tried in Cork for the murder. Among those arrested were a brother of McCarthy the gamekeeper, and a cousin of Malachy Duggan.

Conviction and Execution of the Murderers.

During the trial the evidence of Malachy was corroborated in several particulars. An ingenious effort

to discredit him was made by John Duggan, one of the prisoners. As Malachy swore that the killing was effected by the contents of the gun fired by the gamekeeper, McCarthy, John Duggan said that was untrue; that the colonel was killed by a blow from his hammer—he was a mason—and that it was with this same hammer the kitchen window was broken. The marks in the shutters of the window corresponded with the sharp end of John Duggan's hammer, and for the purpose of further testing his confession the body of Colonel Hutchinson was disinterred. The hole, near the heart, might have been made by the sharp end of the stone hammer, but it was clear that he had been shot. The surgeon found several slugs lodged in the region of the heart. This bore out Malachy's evidence; the prisoners were all found guilty, sentenced to be hung in the square of Macroom, and their heads placed on spikes on the roof of the gaol, as a terror to evildoers. The fate of one of the condemned men created much sympathy, that of Callaghan McCarthy, the gamekeeper's brother. He vehemently denied having had hand, act, or part in the murder, or the attack on Codrum House, and the peasantry believed his statement. It was supposed that Duggan swore against him, fearing that he would seek revenge for his informing against the gamekeeper.

A singular event is related[1] as having taken place on the day of the execution. Mr. Madden says, "They (the condemned men) were placed on horseback, their persons being fastened. Riding up through

[1] *Vide* Madden's "Revelations of Ireland," p. 250.

the streets of Macroom, an old woman threw herself in the way of the cavalcade, before John Duggan's horse, and cried out in Irish, 'John Duggan, John Duggan! you owe me sixpence!' The culprit, who looked more dead than alive, contrived, though his arms were pinioned, with his fingers to jerk out of his pocket a sixpenny-piece to the old woman. When she was asked 'Why she tormented Duggan at that time?' she replied, 'Troth, then, shure I wouldn't be afther letting it rest upon his sowl.'"

One circumstance was regarded as enhancing the terrible severity of the sentence upon the six men hanged in the square of Macroom. No minister of religion accompanied them to the gallows. This was done on purpose; they had, indeed, received the ministrations of the priests while in Cork gaol, and they accompanied them part of their sad journey, but when about half-way were required to return to Cork.

The execution was largely attended, and when all were dead the hangman severed the heads from the bodies, and put them on the spikes, where they remained for many years.

It might be supposed that the execution of these six men would have been deemed sufficient vindication of the outraged law on account of this crime, but it was not so. The rest of the gang were eagerly sought for, McCarthy the gamekeeper especially; and at length he and some others were taken. They were tried, convicted, and executed. Mr. Madden says,[1] "Their heads were also set on spikes, and in order to

[1] *Vide* Madden's "Revelations of Ireland," p. 260.

mark the gamekeeper, McCarthy, with signal posthumous infamy, it was resolved to affix his right hand with his skull, in order that all men might know, even after death, the head of the gamekeeper who shot his master."

Reen, the servant who affected to be deaf, was transported, on the ground of his having a guilty knowledge of the meditated attack. The evidence against him was not very strong, but his deafness was thought a mere pretence.

Another of the gang was captured near Blarney. He, too, was tried at the Cork Assizes, found guilty, and suffered death. Thus, of the fourteen engaged in the attack on Codrum House, nine suffered death, two, Malachy Duggan and his son, turned informers, and the rest escaped to America.

CHAPTER XIV.

Immorality rebuked.—Case of the Rev. Charles Massey against the Marquis of Headfort.

Of the great cases which occupied public attention upon the Munster Circuit, and which enlisted the greatest interest from the rank and position of the litigating parties, and produced the greatest displays of forensic eloquence, none exceeds, and few equal, that of the Rev. Charles Massey against the Marquis of Headfort. This case was brought for criminal conversation by the defendant with the plaintiff's wife, and was tried at the Ennis Summer Assizes, held on the 27th of July, 1804, before Baron Sir William Smith. The plaintiff was the second son of Sir Hugh Massey, Bart. He was a clergyman, and held several benefices. In 1797 he married, contrary to the wishes of his father, a lady of great personal beauty, named Roslewin. By this union the plaintiff became the father of an only child, a son. While residing in 1803 at Donass, on the Clare side of the majestic Shannon, a few miles from the city of Limerick, the Marquis of Headfort was then quartered in Limerick with his regiment. The marquis occupied the town mansion of the Earl of Limerick. When the Rev. Mr. Massey had been doing clerical duty as rector

in the county of Meath, where the marquis held large estates, the plaintiff became acquainted with the Headfort family. So when Mrs. Massey made the acquaintance of the marquis in Limerick, her husband naturally invited him to visit at Donass. Mrs. Massey was a very young lady, fond of gaiety, while Lord Headfort was half a century old. The consequence of their intimacy was, that on a Sabbath-day, after the Christmas of 1803, while the Rev. Mr. Massey was officiating in the church, his wife eloped with the marquis. This was the cause of action. The damages were laid at the high figure of 40,000*l.*

The trial, of course, created great local, and indeed general, interest. It was rumoured the most eminent counsel in Ireland were engaged on both sides, and this was fully borne out when there appeared for the plaintiff the Right Hon. J. P. Curran, Bartholomew Hoare, Harry Deane Grady, Thomas Carey, John White, Amory Hawkesworth, William O'Regan, Thomas Lloyd, William McMahon, and George Bennett, instructed by Mr. Anthony Hogan; and for the noble defendant the Right Hon. George Ponsonby, Thomas Quin, Thomas Goold, John Franks, Charles Burton, and Richard Pennefather, instructed by Mr. Simms. I have already given my reader sketches of many of these eminent members of the Irish Bar, who were also members of the Munster Circuit; but as the leading counsel for the defendant, Mr. GEORGE PONSONBY, was brought down special, it requires that some short sketch should be given of him, in order that our readers should know what his claim was to entitle him to that distinction, especially when such men as Quin, Goold,

Burton, and Pennefather were serving under him. He was son of the Right Hon. John Ponsonby, Speaker of the Irish House of Commons. George Ponsonby was called to the bar in 1780, but preferred the life of a country gentleman and member of Parliament to the drudgery of the Courts, until his marriage with Lady Mary Butler, eldest daughter of the Earl of Lanesborough. He was appointed Commissioner of Revenue, with a salary of 1200*l.* a year, but changes of Government having caused the loss of his office, he applied himself to his profession, and became a very eminent Chancery lawyer. When FitzGibbon, in 1789, was elevated to the woolsack, he presented his bag to Mr. Ponsonby, thereby giving an intimation to the solicitors who were in the habit of sending him briefs, he wished them in future to be sent to Mr. Ponsonby. He did not practise very much in *nisi prius* cases, and it was, probably, owing to his aristocratic connexions, that induced the agent for the Marquis of Headfort to bring him down as special counsel to the Munster Circuit.[1]

Mr. Bennett having opened the pleadings, Mr. Hoare stated the case. This, of course, was in order that Curran might reply to the speech of Mr. George Ponsonby. In opening the case Mr. Hoare described the defendant as "a hoary veteran, in whom, like Etna, the snows above did not quench the flames below." His address was strong, vigorous, and im-

[1] His subsequent career was very distinguished. In the Ministry of Fox and Grenville he became Lord Chancellor of Ireland, and, after the death of Fox, became leader of the Opposition in the House of Commons. He died in London, in 1817.

pressive. I cannot venture to transcribe it at great length, but one passage must not be omitted:—

"The noble lord proceeded to the completion of his diabolical project, not with the precipitancy of youth, but with the most cool and deliberate consideration. The Cornish plunderer, intent on spoil, callous to every touch of humanity, shrouded in darkness, holds out false lights to the tempest-tossed vessel, and lures her and her pilot to that shore upon which she must be lost for ever. The rock unseen, the ruffian invisible, and nothing apparent but the treacherous signal of security and repose; so this prop of the Crown, this pillar of the State, this stay of religion, this ornament of the peerage, this common protector of the people's privileges, and of the Crown's prerogatives, descends from these high grounds of character to muffle himself in the gloom of his own base and dark designs, to play before the eyes of the deluded wife, and the deceived husband, the falsest lights of love to the one, and of friendly and hospitable regards to the other, until she is at length dashed upon that hard bosom where her honour and happiness are lost for ever. The agonized husband beholds the ruin with those sensations of misery and of horror which you can better feel than I describe. She, upon whom he had embarked all his hope, and all his happiness in this life, the treasure of all his earthly felicities, the rich fund of all his hoarded joys, sunk before his eyes into an abyss of infamy, or, if any fragment escape, escaping to solace, to gratify, to enrich her vile destroyer."

His speech, which occupied some time in delivery, was much admired. The usual proofs were then given

—the fact of marriage, the happy union in which both husband and wife lived, her elopement, and her living with the Marquis of Headfort, and the amount of his fortune—estimated at 30,000*l.* a-year.

The plaintiff's case having closed with those proofs, Mr. Quin addressed the jury on the part of the defendant. He did not attempt to deny the fact of the elopement, but insisted strongly upon the levity and giddiness of Mrs. Massey, and stated her character was so light that it was gross folly, or worse, in the plaintiff to throw her in the way of the noble defendant. In sustainment of his description of the wife of the plaintiff, the defendant called as witnesses Colonel Pepper, Captain Charleton, and Mr. George Evans Bruce.[2]

Various acts of levity were deposed to by those witnesses, which caused them to be roughly handled in cross-examination. The defendant's special counsel, Mr. Ponsonby, then proceeded to address the jury. He took very much the same course as Mr. Quin, pressing strongly upon the jury the worthlessness of the wretched woman, for whose loss the plaintiff demanded the preposterous sum of 40,000*l.*, and insisted that the conduct of the plaintiff in inviting the marquis to his house disentitled him to compensation, having connived at what occurred. Mr. Ponsonby's speech was more characterized by his skill as an advocate than his power as an orator; but Curran, who felt this a case demanding his best efforts, delivered the following magnificent speech:—

"Gentlemen of the jury,—Never so clearly as in the

[2] This is the individual who, in 1816, brought an action for libel against Mr. Thomas Grady, which shall appear in due time.

present instance, have I observed that safeguard of justice which Providence has placed in the nature of man. Such is the imperious dominion with which truth and reason wave their sceptres over the human intellect, that no solicitation, however artful, no talent, however commanding, can seduce it from its allegiance. In proportion to the humility of our submission to its rule do we rise with some faint emulation of that ineffable and presiding divinity, whose characteristic attribute it is to be coerced and bound by the inexorable laws of its own nature, so as to be all-wise and all-just from necessity rather than election. You have seen it in the learned advocate (Mr. Ponsonby) who has preceded me, most peculiarly and strikingly illustrated. You have seen even his great talents, perhaps the first in any country, languishing under a cause too weak to carry him, and too heavy to be carried by him. He was forced to dismiss his natural candour and sincerity, and, having no merits in his case, to substitute the dignity of his own manner, the resources of his own ingenuity, against the overwhelming difficulties by which he was surrounded. Wretched client—unhappy advocate! what a combination do you form! But such is the condition of guilt—its commission mean and tremulous, its defence artificial and insincere, its prosecution candid and simple, its condemnation dignified and austere. Such has been the defendant's guilt, such his defence, such shall be my address, and such, I trust, your verdict.

"The learned counsel has told you that this unfortunate woman is not to be estimated at 40,000*l*. Fatal and unquestionable is the truth of this assertion.

Alas! gentlemen, she is no longer worth anything—faded, degraded, and disgraced, she is worth less than nothing! But it is for the honour, the hope, the expectation, the tenderness, and the comforts that have been blasted by the defendant, and have fled for ever, that you are to remunerate the plaintiff by the punishment of the defendant. It is not her present value which you are to weigh, but it is her value at that time when she sat basking in a husband's love, with the blessing of Heaven on her head, and its purity in her heart—when she sat amongst her family and administered the morality of the parental board. Estimate that past value, compare it with its present deplorable diminution, and it may lead you to form some judgment of the severity of the injury, and the requisite extent of the compensation. The learned counsel has told you, you ought to be cautious, because your verdict cannot be set aside for excess. The assertion is just; but has he treated you fairly by its application? His cause would not allow him to be fair: for, why is the rule adopted in this single action? Because this being peculiarly an injury to the most susceptible of all human feelings, it leaves the injury of the husband to be ascertained by the sensibility of the jury, and does not presume to measure the justice of their determination by the cold and chill exercise of his own discretion. In any other action it is easy to calculate. If a tradesman's arm is cut off you can measure the loss which he has sustained; but the wound of feeling, and the agony of the heart, cannot be judged by any standard with which I am acquainted. And you are unfairly dealt with when you are called on to appreciate the

present suffering of the husband by the present guilt, delinquency, and degradation of the wife. As well might you, if called upon to give a compensation to a man for the murder of his dearest friend, find the measure of his injury by weighing the ashes of the dead. But it is not, gentlemen of the jury, by weighing the ashes of the dead that you would estimate the loss of the survivor.

"The learned counsel has referred you to other cases, and other countries, for instances of moderate verdicts; I can refer you to some authentic instances of just ones. In the next county, 15,000*l.* against a subaltern officer. In Travers *v.* McCarthy, 5000*l.* against a servant. In Tighe *v.* Jones, 10,000*l.* against a man not worth a shilling. What, then, ought to be the rule where rank and wealth and station have combined to render the example of his crime more dangerous, to make his guilt more odious, to make the injury to the plaintiff more grievous, because more conspicuous? I affect no levelling familiarity when I speak of persons of higher ranks of society. Distinctions of orders are necessary, and I always feel disposed to treat them with respect; but when it is my duty to speak of the crimes by which they are degraded, I am not so fastidious as to shrink from their contact when to touch them is essential to their dissection. In this action, the condition, the conduct, and the circumstances of the parties are justly and particularly the object of your consideration.

"Who are the parties? The plaintiff, young, amiable, of family and education. Of the generous disinterestedness of his heart you can form an opinion

even from the evidence of the defendant, that he declined an alliance which would have added to his fortune and consideration, and which he rejected for an unportioned union with his present wife. She, too, at that time was young, beautiful, and accomplished; and felt her affection for her husband increase in proportion as she remembered the ardour of his love, and the sincerity of his sacrifice. Look now, at the defendant! I blush to name him! I blush to name a rank which he has tarnished, and a patent which he has worse than cancelled. High in the army —high in the State—the hereditary counsellor of the King—of wealth incalculable; and to this last I advert with an indignant and contemptuous satisfaction, because, as the only instrument of his guilt and shame, it will be the means of his punishment, and the source of compensation for his guilt.

"But let me call your attention distinctly to the questions you have to consider. The first is the fact of guilt. Is this noble lord guilty? His counsel knew too well how they would have mortified his vanity had they given the smallest reason to doubt the splendour of his achievement. Against any such humiliating suspicion he had taken the most studious precaution by the publicity of the exploit. And here, in this Court, and before you, and in the face of the country, he has the unparalleled effrontery of disdaining to resort to even a profession of innocence. His guilt established, the next question is the damages you should give. You have been told that the amount of damages should depend on circumstances. You will consider these circumstances, whether of aggrava-

tion or mitigation. His learned counsel contend that the plaintiff has been the author of his own suffering, and ought to receive no compensation for the ill in consequence of his own conduct. In what part of the evidence do you find any foundation for that assertion? He indulged her, it seems, in dress; generous and attached, he probably indulged her in that point beyond his means; and the defendant now impudently calls on you to find one excuse for the adulterer in the fondness and liberality of the husband.

"But you have been told that the husband connived. Odious and impudent aggravation of injury, to add calumny to insult, and outrage to dishonour. From whom, but from a man hackneyed in the ways of shame and vice—from whom, but from a man having no compunction in his own breast to restrain him, could you expect such brutal disregard for the feelings of others?—from whom, but from the cold-blooded veteran seducer?—from what, but the exhausted mind, the habitual community with shame? from what; but the habitual contempt of virtue and of man, could you have expected the arrogance, the barbarity, the folly, of so foul, because so false, an imputation? He should have reflected, and have blushed, before he suffered so vile a topic of defence to have passed his lips. But ere you condemn him let him have the benefit of the excuse, if the excuse be true.

"You must have observed how his counsel fluttered and vibrated between what they call connivance and injudicious confidence, and how in affecting to distinguish they have confounded them both together. If the plaintiff has connived, I freely say to you, do

not reward the wretch who has prostituted his wife, and surrendered his own honour—do not compensate the pander of his own shame, and the willing instrument of his own infamy. But as there is no sum so low to which that defence, if true, ought not the reduce your verdict, so neither is there any so high to which such a charge ought not to inflame it if the charge be false. Where is the single fact in this case on which the remotest suspicion of connivance can be brought? Obviously has the defendant endeavoured to make the softest and most amiable feelings of the heart the pretext of his slanderous imputations. An ancient and respectable prelate, the husband of his wife's sister, is chained to the bed of sickness, perhaps the bed of death. In that distressing situation my client suffered his wife to be the bearer of consolation to the bosom of her sister. He had not the heart to refuse her, and the softness of his nature is now charged on him as a crime. He is now insolently told that he connived at his dishonour, and that he ought to have foreseen that the mansion of sickness and sorrow would have been made the scene of assignation and of guilt. On this charge of connivance I will not further weary you, or exhaust myself. I will add nothing more than that it is as false as it is impudent, that in the evidence it has not a colour of support, and that by your verdict you should mark it with reprobation. The other subject, namely, that he was indiscreet in his confidence, does, I think, call for some discussion: for I trust you see that I affect not any address to your passions, by which you may be led away from the subject. I presume merely to separate the parts of

this affecting case, and to lay them item by item before you, with coldness of detail, and not with any colouring or display of fiction or of fancy. Honourable to himself was his unsuspecting confidence, but fatal must we admit it to have been when we look to the abuse committed upon it. But where is the guilt of this indiscretion? He did admit this noble lord to pass his threshold as his guest. Now, the charge which this noble lord builds on this indiscretion is: 'Thou fool! thou hadst confidence in my honour, and that was a guilty indiscretion. Thou simpleton! thou thoughtest that an admitted and cherished guest would have respected the laws of honour and hospitality, and thy indiscretion was guilt.'

"Gentlemen, what horrid alternative in the treatment of wives would such reasoning recommend? Are they to be immured by worse than Eastern barbarity? Are their principles to be depraved, their passions sublimated, every finer motive of action extinguished, by the inevitable consequences of thus treating them like slaves? Or is a liberal and generous confidence in them to be the passport of the adulterer, and the justification of his crimes? Honourably, but fatally for his own repose, he was neither jealous, suspicious, nor cruel. He treated the defendant with the confidence of a friend, and his wife with the tenderness of a husband. He did leave to the noble marquis the physical possibility of committing against him the greatest crime that can be perpetrated against a being of an amiable heart and refined education. In the middle of the day, at the moment of divine worship, when the miserable husband was on his knees, directing

the prayers and thanksgiving of his congregation to their God, that moment did the remorseless adulterer choose to carry off the deluded victim from her husband, from her child, from her character, from her happiness, as if not content to have his crime confined to its miserable aggravation, unless he gave it a cast and colour of fictitious sacrilege and impiety. Oh! how happy had it been, when he arrived at the bank of the river with the ill-fated fugitive, ere yet he had committed her to that boat, of which, like the fabled bark of Styx, the exile was eternal—how happy at that moment, so teeming with misery and shame, if you, my lord, had met him, and could have accosted him in the character of that good genius which had abandoned him, how impressively might you have pleaded the cause of the father, of the child, of the mother, and even of the worthless defendant himself. You would have said, 'Is this the requital you are about to make for respect and kindness and confidence in your honour? Can you deliberately expose this young man, in the bloom of life, with all his hopes before him—can you expose him, a wretched outcast from society, to the scorn of a merciless world? Can you set him adrift upon the tempestuous ocean of his own passions at this early season, when they are most headstrong? and can you cut him out from the moorings of those domestic obligations by whose cable he might ride at safety from their turbulence? Think of, if you can conceive it, what a powerful influence arises from the sense of home, from the sacred religion of the heart in quelling the passions, in reclaiming the wanderings, in correcting the discords of the

human heart. Do not cruelly take from him the protection of these attachments. But if you have no pity for the father, have mercy at least upon his innocent and helpless child. Do not condemn him to an education scandalous or neglected. Do not strike him with that most dreadful of all human conditions, the orphanage that springs not from the grave, that falls not from the hand of Providence, or from the stroke of death; but comes before its time, anticipated and inflicted by the remorseless cruelty of parental guilt.'

"For the poor victim herself, not yet immolated, while yet balancing upon the pivot of her destiny, your heart could not be cold, nor your tongue be wordless. You would have said to him, 'Pause, my lord, while there is yet a moment of reflection. What are your motives, what your views, what your prospects from what you are about to do? You are a married man, the husband of the most amiable and respectable of women; you cannot look to the chance of marrying this wretched fugitive—between you and that event there are two sepulchres to pass. What are your inducements? Is it love, think you? No, do not give that name to any attraction you can find in the faded refuse of a violated bed. Love is a noble and generous passion. It can be founded only on a pure and ardent friendship, on an exalted respect, on an implicit confidence in its object. Search your heart, examine your judgment. Do you find the semblance of any one of these sentiments to bind you to her? What could degrade a mind to which nature or education had given post, or stature, or character into a

friendship for her? Could you repose upon her faith? Look in her face, my lord. She is, at this moment, giving you the violation of the most sacred of human obligations as the pledge of her fidelity. She is giving you the most irrefragable proof that she is deserting her husband for you; so she would, without a scruple, abandon you for another. Do you anticipate any pleasure you might feel in the possible event of your becoming the parents of a common child? She is, at this moment, proving to you that she is dead to the sense of parental, as of conjugal obligation, and that she would abandon your offspring to-morrow with the same facility with which she now deserted her own. Look, then, at her conduct, as it is, as the world must behold it, blackened by every aggravation that can make it either odious or contemptible, and unrelieved by a single circumstance of mitigation that could palliate its guilt, or retrieve it from abhorrence.

"'Mean, however, and degraded as this woman must be, she will still (if you take her with you) have strong and heavy claims upon you. The force of these claims does, certainly, depend upon circumstances; before, therefore, you expose her fate to the dreadful risk of your caprice or ingratitude, in mercy to her, weigh well the confidence she can place in your future justice and honour at that future time, much nearer than you think; by what topics can her cause be pleaded to a sated appetite, to a heart that repels her, to a just judgment in which she never could have been valued or respected? Hers is not the case of an unmarried woman, with whom a pure and generous friendship may insensibly have ripened into a more serious at-

tachment, until at last her heart became too deeply pledged to be reassumed. If so circumstanced, without any husband to betray, or child to desert, or motive to restrain, except what related solely to herself, her anxiety for your happiness made her overlook every other consideration, and commit her history to your honour. In such a case, the strongest and the highest that man's imagination can suggest, in which you at least could see nothing but the most noble and disinterested sacrifice, in which you could find nothing but what claimed from you the most kind and exalted sentiment of tenderness, and devotion, and respect, and in which the most fastidious rigour would find so much more subject for sympathy than blame, let me ask you, could you, even in that case, answer for your justice and gratitude? I do not allude to the long and pitiful catalogue of paltry adventures in which it seems your time has been employed—the coarse and vulgar succession of casual connexion, joyless, loveless, and unendeared; but do you not find upon your memory some traces of an engagement of the character I have sketched? Has not your sense of what you would owe in such a case, and to such a woman, been at least once put to the test of experiment? Has it not once at least happened that such a woman, with all the resolution of strong faith, flung her youth, her hope, her beauty, her talent, upon your bosom, weighed you against the world, which she found but a feather in the scale, and took you as an equivalent? How did you then acquit yourself? Did you prove yourself worthy of the sacred trust reposed in you? Did your spirit so associate with hers as to leave her no room

to regret the splendid and disinterested sacrifice she had made? Did her soul find a pillow in the tenderness of yours, and support in its firmness? Did you preserve her high in her own consciousness, proud in your admiration and friendship, and happy in your affection? You might have so acted; and the man that was worthy of her would have perished rather than not so act as to make her delighted with having confided so sacred a trust to his honour. Did you so act? Did she feel that, however precious to your heart, she was still more exalted and honoured in your reverence and respect? Or did she find you coarse and paltry, fluttering and unpurposed, unfeeling and ungrateful? You found her a fair and blushing flower, its beauty and its fragrance bathed in the dew of heaven—did you so tenderly transplant it as to preserve that beauty and that fragrance unimpaired? Or did you so rudely cut it as to intercept its nutriment, to waste its sweetness, to blast its beauty, to bow its faded and sickly head? And did you at last fling it, like a loathsome weed, away? If, then, to such a woman, so clothed with every title that could ennoble and exalt, and endear her to the heart of man, you would be cruelly and capriciously deficient, how can a wretched fugitive like this, in every point her contrast, hope to find you just? Send her, then, away—send her back to her home, to her child, to her husband, to herself.'

"Alas! there was no one to hold such language to the noble defendant. He did not hold it to himself; but he paraded his despicable prize in his own carriage, with his own retinue, his own servants—this veteran

Paris hawked his enamoured Helen from the western quarter of the island to a seaport in the eastern, crowned with the acclamations of a senseless and grinning rabble, glorying and delighted, no doubt, in the leering and scoffing admiration of grooms, and ostlers, and waiters, as he passed.

"In this odious contempt of every personal feeling, of public opinion, of common humanity, did he parade this woman to the seaport, whence he transported his precious cargo to a country where her example may be less mischievous than in her own, where I agree with my learned colleague in heartily wishing he may remain with her for ever. We are too poor, too simple, too unadvanced a country for the example of such achievements. Where the relaxation of morals is the natural growth and consequence of the great progress of arts and wealth, it is accompanied by a refinement that makes it less gross than shocking; but for such palliations we are a century too young. I advise you, therefore, most earnestly to rebuke this budding mischief, by letting the wholesome vigour and chastisement of a liberal verdict speak what you think of its enormity. In every point of view in which I can look at the subject, I see you are called upon to give a bold, and just, and indignant and exemplary compensation. The injury of the plaintiff demands it from your justice, the delinquency of the defendant provokes it by its enormity. The rank on which he has relied for impunity calls upon you to tell him that crime does not ascend to the rank of the perpetrator, but the perpetrator sinks from his rank, and descends to the level of his delinquency. The style and mode

of the defence is a gross aggravation of his conduct, and a gross insult upon you.

"Look upon the different subjects of his defence as you ought, and let him profit by them as he deserves. Vainly presumptuous upon his rank, he wishes to overawe you by that despicable consideration. He next resorts to a cruel aspersion upon the character of the unhappy plaintiff, whom he had already wounded beyond the possibility of reparation. He has ventured to charge him with connivance. As to that I will only say, gentlemen of the jury, do not give this vain boaster a pretext for saying, that if the husband connived in the offence, the jury also connived in the reparation.

"But he has pressed another curious topic upon you. After the plaintiff had cause to suspect his designs, and the likelihood of their being fatally successful, he did not then act precisely as he ought. Gracious God! what an argument for him to dare to advance. It is saying this to him: 'I abused your confidence, your hospitality—I laid a base plan for the seduction of your wife—I succeeded at last so as to throw in upon you that most dreadful of all suspicions to a man fondly attached, proud of his wife's honour, and tremblingly alive to his own, that you were possibly a dupe to the confidence in the wife as much as in the guest. In this so pitiable distress, which I myself had studiously and deliberately contrived for you, between hope and fear, and doubt and love, and jealousy and shame—one moment shrinking from the cruelty of your suspicion, the next fired with indignation at the facility and credulity of your acquittal—in this labyrinth of doubt, in this frenzy of suffering, you

were not collected and composed; you did not act as you might have done, if I had not worked you to madness, and upon that very madness which I have inflicted upon you, upon the very completion of my guilt, and of your misery, I will build my defence. You will not act critically right, and therefore are unworthy of compensation.'"

Having dwelt somewhat more on this topic, and showed how little there was in the evidence to sustain the allegation of connivance, Mr. Curran continued :—

"There is another ground on which you are called on to give most liberal damages, and that has been laid by the unfeeling vanity of the defendant. This business has been marked by the most elaborate publicity. It is very clear he has been allured by the glory of the chase, and not the value of the game. The poor object of his pursuit could be of no value to him, or he could not have so wantonly and cruelly and unnecessarily abused her. He might have kept this unhappy intercourse an unsuspected secret. Even if he wished for elopement he might easily have so contrived it that the place of her retreat would be profoundly undiscoverable.

"Yet, though even the expense, a point so tender to his delicate sensibility, of concealing could not be one-fortieth of the cost of publishing her, his vanity decided him in favour of glory and publicity. By that election he has, in fact, put forward the Irish nation, and its character, so often and so variously calumniated, upon its trial before the tribunal of the empire, and your verdict will this day decide whether an Irish jury can feel with justice and spirit upon a

subject that involves conjugal affection and comfort, domestic honour and repose, the certainty of issue, the weight of public opinion, the gilded and presumptuous criminality of overweening rank and station. I doubt not but he is, at this moment, reclining on a silken sofa anticipating that submissive and modest verdict by which you will lean gently on his errors, and expecting from your patriotism, no doubt, that you will think again and again, before you condemn any great portion of the immense revenue of a great absentee to be retained in the nation that produced it, instead of being transmitted, as it ought, to be expended in the splendour of another country. He is now, probably, waiting for the arrival of the report of this day, which, I understand, a famous note-taker has been sent hither to collect. Let not the gentleman be disturbed.

"Gentlemen, let me assure you it is more, much more, the trial of you than of the noble marquis, of which this important recorder is, at this moment, collecting materials. His noble employer is now expecting a report to the following effect: 'Such a day came on to be tried at Ennis, by a special jury, the cause of Charles Massey against the most Noble the Marquis of Headfort. It appeared that the plaintiff's wife was young, beautiful, and captivating; the plaintiff himself a person fond of this beautiful creature to distraction, and both doting on their child. But the noble marquis approached her, the plume of glory nodded on his head. Not the goddess Minerva, but the goddess Venus, had lighted up his casque with "the fire that never tires," such as many a lady gay had been dazzled with before. At the first advance she trembled; at the second she

struck to the redoubted son of Mars and pupil of Venus. The jury saw it was not his fault (it was an Irish jury); they felt compassion for the tenderness of the mother's heart, and for the warmth of the lover's passion. The jury saw on one side a young, entertaining gallant; on the other a beauteous creature, of charms irresistible. They recollected that Jupiter had been always successful in his amours, although Vulcan had not always escaped some awkward accidents. The jury was composed of fathers, brothers, husbands, but they had not the vulgar jealousy that views little things of that sort with rigour, and wishing to assimilate their country in every respect to England, now that they are united to it, they, like English gentlemen, returned to their box with a verdict of 6*d.* damages, and 6*d.* costs.'

"Let this be sent to England. I promise you your odious secret will not be kept better than that of the wretched Mrs. Massey. There is not a bawdy chronicle in London in which the epitaph which you would have written on yourselves will not be published, and our enemies will delight in the spectacle of our precocious guilt, in seeing that we can be rotten before we are ripe. I do not suppose it. I do not, cannot, will not believe it. I will not harrow up myself with the anticipated apprehension. There is another consideration, gentlemen, which I think most imperiously demands even a vindictive reward of exemplary damages, and that is, the breach of hospitality.

"To us peculiarly does it belong to avenge the violation of its altar. The hospitality of other countries is a matter of necessity or convention. In savage

nations, of the first; in polished, of the latter. But the hospitality of an Irishman is not the running account of listed and legered courtesies, as in other countries; it springs, like all his qualities—his faults, his virtues—directly from his heart. The heart of an Irishman is, by nature, bold, and he confides; it is tender, and he loves; it is generous, and he gives; it is social, and he is hospitable. This sacrilegious intruder has profaned the religion of that sacred altar, so elevated in our worship, so precious to our devotion, and it is our privilege to avenge the crime. You must either pull down the altar, and abolish the worship, or you must preserve its sanctity undebased. There is no alternative between the complete exclusion of all mankind from your threshold, and the most rigorous punishment of him who is admitted and betrays. This defendant has been so trusted, has so betrayed, and you ought to make him a most signal example. Gentlemen, I am the more disposed to feel the strongest indignation and abhorrence at this odious conduct of the defendant when I consider the deplorable condition to which he has reduced the plaintiff, and perhaps the still more deplorable one that the plaintiff has in prospect before him. What a progress has he to travel through before he can attain the peace and tranquillity which he has lost! How like the wounds of the body are those of the mind! How burning the fever! How painful the suppuration! How slow, how hesitating, how relapsing the progress to convalescence! Through what a variety of suffering, what new scenes and changes must my unhappy client pass ere he can reattain, should he ever reattain, that

health of soul of which he has been despoiled by the cold and deliberate machinations of this practised and gilded seducer. If, instead of drawing upon his incalculable wealth for a scanty retribution, you were to stop the progress of his despicable achievements by reducing him to actual poverty, you could not even so punish him beyond the scope of his offence, nor reprise the plaintiff beyond the measure of his suffering. Let me remind you that in this action the law not only empowers you, but that its policy commands you, to consider the public example as well as the individual injury when you adjust the amount of your verdict. I confess I am most anxious that you should acquit yourselves worthily upon this important occasion. I am addressing you as fathers, husbands, brothers. I am anxious that a feeling of these high relations should enter into, and give dignity to your verdict.

"But I confess I feel a tenfold solicitude when I remember that I am addressing you as my countrymen, as Irishmen, whose characters as jurors, as gentlemen, must find either honour or degradation in the result of your decision. Since so vast be the distributive share of that national estimation that can belong to so unimportant an individual as myself, yet I do own I am tremblingly solicitous for its fate. Perhaps it appears of more value to me, because it is embarked in the same bottom with yours. Perhaps the community of peril, of common safety, of common wreck, gives a consequence to my share of the risk, which I could not be vain enough to give it, if it were not raised to it by that mutuality. But why stoop to think at all of myself, when I know that

you, gentlemen of the jury—when I know that our country itself—are my clients on this day, and must abide the alternative of honour or of infamy, as you shall decide. But I will not despond; I will not dare to despond. I have every trust, and hope, and confidence in you, and to that hope I will add my most fervent prayer to the God of all truth and justice so to raise, and enlighten, and fortify your minds, that you may so decide as to preserve to yourselves while you live the most delightful of all recollections—that of acting justly; and to transmit to your children the most precious of all inheritances—the memory of your virtue."

The learned Baron then charged the jury. As there were not many witnesses, and as the question resolved itself into one of damages, which was entirely the province of the jury to measure, his lordship was brief. The jury, after some consultation, brought in their verdict. They found for the plaintiff, 10,000*l.* damages and costs.

Thus ended this case, in which Curran made his last, and probably best, speech upon the Munster Circuit. The trial lasted twelve hours.

CHAPTER XV.

Course of the Munster Circuit.—Stage Coaches in the Eighteenth Century.—The Circuit.—Ennis.—Faction Fights.—Banim's Poem.—The Old Man at the Altar.—Anecdote of the late Baron Greene.—The O'Loghlens.—Henns.—Quin Abbey.—Creggan Tower.—Atterbury Lodge.—Fatal Duels.—Bunratty Castle.

BEFORE we proceed further in the History of the Munster Circuit during the present century, it may be well to take a glance at the mode of travelling used formerly, and at the various towns visited by the judges of assize.

Previously to the year 1760 there was no conveyance open to public use between the cities and towns of Ireland. The country was so thickly wooded, the roads so badly made, travelling was very insecure; and this was rendered still more dangerous by the numbers of rogues and ruffians who infested any which promised a chance of plunder. To avert this last danger persons usually travelled in parties; and we are informed it was the custom for persons about to journey, say from Cork or Limerick to Dublin, to post in a conspicuous place, as over the mantelpiece of the principal inn, their names and the date of their intended departures. In Limerick this place of rendezvous was the Coffee-Room in Quay Lane; and here the adventurous pilgrims met,

taking care to be well armed for the road. The journey to Dublin usually occupied five days. The same horses went the whole way. The bar, on horseback, usually formed the escort of the judges, who were met on the confines of the respective counties by the high sheriffs of each county, attended by a guard bearing javelins. A witty judge was once asked, "Of what use are these javelin men?" He replied, "I suppose they are to help me to *charge the grand jury.*"

About the year 1760 a coach, called the "Fly," was started to run between Limerick and Dublin. It performed the journey, about 100 miles, in four days. The "Fly" was large and heavy in construction, which, indeed, was indispensable; as the roads were so uneven, a lighter vehicle would be jolted to pieces. The road-makers, going on the axiom, a straight line is the shortest between two points, ran their roads as straight as an arrow, heedless of such impediments as hills or bogs; the traveller had no choice but to climb the one and to wade the other. As the strong-built coach required stout harness to move it, the accoutrements of the four sturdy horses were of a most elaborate and complicated character. We can well suppose the time it took to harness the relays of horses, from the circumstance that the same harness was used throughout the four days' journey. But time and the march of intellect worked changes for the better. The slow-going "Fly" was replaced by a coach of lighter build, called the "Balloon," and it was a decided improvement to find the relays of horses ready harnessed when the stage was reached. The "Balloon" reached Dublin from Limerick in three days, and some twenty years

later the route was changed. Instead of proceeding over Thomond Bridge and by Killaloe, the coach went by Clare Street, and *viâ* Nenagh, to Dublin. This shortened the journey to two days; and when I travelled by coach, before the railroads banished the stage, we reached Limerick from Dublin in a day. Towards the close of the eighteenth century the extent of the Munster Circuit was considerably changed. In 1796 the counties of Waterford and Tipperary were joined to the Leinster Circuit, and since then Clare, Limerick, Kerry, and Cork counties form the Munster. The usual route is for the judges of assize to open the commission first in Clare, then in Limerick, next in Kerry, and lastly in Cork; but this rule has been departed from, as in the year 1816, when the Summer Assizes commenced in Cork, whence the judges proceeded to Ennis, thence to Limerick and Tralee. Owing to the heavy criminal calendar, they had to return to discharge the gaol at Cork.

Ennis, the assize town and capital of the county of Clare at the commencement of the present century, presented a very different aspect to its present improved one. The streets were narrow, irregular, badly paved, and not over clean at any time. It is called Ennis from *Inis*, an island, being built on an insulated ground situate in the river Fergus. Two of the chief streets form a continuous line along the banks of the river, while a third branches off from the old court-house towards Limerick. This court house witnessed the displays of Curran, Hoare, Quin, and the other leaders of the Munster Circuit in olden times, and the old hostel of the "Gridiron" could tell, had it a tongue,

many amusing stories. The landlady, Honor O'Loghlen, must have had a ready wit. Happening to enter the bar-room after dinner, Curran proposed her health. "I give you, gentlemen," he said, "Honor and Honesty." Possibly the worthy landlady did not feel complimented, for she readily rejoined, "Your *absent* friends, Mr. Curran." Ennis College, at the time we refer to, was in great repute. It is one of the four classical schools of Erasmus Smith's foundation, and at this time accommodated a hundred boarders and about half the number of day pupils. The ruin of the Franciscan Abbey, where the Court of Assize was attempted to be held, as mentioned in my first chapter, still forms a picturesque object near the town. This abbey owed its foundation to the kingly race of Thomond, and many of the descendants of Brian Boroihme tranquilly rest beneath its crumbling walls. The great eastern window, thirty feet in height, divided by five stone mullions, lancet-headed, displays great beauty of design and skill in execution. The abbot's chair, in the chancel, and the high altar, are richly sculptured, and several ancient tombs show traces of pristine beauty, though now sadly defaced by time.

For many years the demon of discord lurked among the people of Clare, and faction fighting extensively prevailed. Scarcely an assize took place in which the calendar did not present an imposing array of names of prisoners indicted for assaults more or less murderous. These continued until the O'Connell election in 1828, when the Roman Catholic clergy prevailed on the heads of factions to become reconciled. John Banim wrote some spirited lines describing this event, which

he recited to me, and I here present them to my readers under the heading, "The Old Man at the Altar:"—

"An old man knelt at the altar,
His enemy's hand to take;
And at first his voice did falter,
And his feeble hands did shake.
For his only brave boy—his glory,
Had been stretch'd at the old man's feet,
A corpse, all so cold and gory,
By the hand that he now must greet.

"The old man soon stopp'd speaking,
For rage, that had not gone by,
From under his brows came breaking,
Up into his enemy's eye.
And now his hands are not shaking,
But, clench'd, on his breast are cross'd;
And he looks a wild wish to be taking
Revenge for the son he has lost.

"But the old man look'd around him,
And thought of the place he was in,
And thought of the vow that bound him,
And thought that revenge is sin;
And then, crying tears like a woman,
'Your hand,' he cried, 'ay, *that* hand,
And I do forgive you, foeman,
For the sake of our bleeding land.'"

Years afterwards some lingering sparks of the old faction feuds brought several Clare boys into the dock at Ennis. They were tried, and the judges were taking a walk along the banks of the Fergus before repairing to their respective courts, the next morning. They were the late Baron Greene and the late Judge

Crampton. Their persons were unknown to a crowd of men who advanced towards Ennis. When about to pass the judges, one of the group, civilly taking off his hat, said,—

"Maybe, gentlemen, ye were in the court yesterday?"

"Yes, my man," replied Baron Greene.

"And can your honour tell us what was done to the boys of the O'Shaughnessys?"

"I do not know," answered the Baron, who had tried the records, "but I think that gentleman," indicating his brother judge, "may know all about them."

To him the interrogatory was put.

"They were all acquitted," replied Judge Crampton.

"Then, by the powers," shouted the countryman, "they must have had great interest intirely."

When the crowd were lost in the distance, the baron jocularly said,—

"Oh, Crampton, how well that fellow knew you."

Few men under a grave visage enjoyed a joke more than Baron Greene. He often entertained me with excellent anecdotes, especially of Lord Norbury. I dined with him one day, when we happened to speak of a breach of promise of marriage case on the list of records for trial, and he told the following of Lord Norbury: "When charging the jury in a breach of promise case, the letters of the faithless defendant had been so long in the plaintiff's pocket, or so often shown to her sympathizing friends, they were greatly frayed at the folds, and almost in tatters. 'Gentlemen,' said Lord

Norbury, carefully holding up one of the epistles to the gaze of the jury, 'it's easy to see these are love-letters, because they're so mighty *tender*.' In a case wherein the plaintiff's attorney's name was Norman, he seemed quite jubilant, as though anticipating a verdict. The Chief Justice said, 'Take care, it is not the *Norman conquest* yet.'"

The baron's father, Sir Jonah Greene, had been Recorder of Dublin. When sentencing for the tenth time some hardened female criminal, he said, "There was no use in committing her to a prison in this country; he would transport her for seven years, and he hoped, in a new country, she would endeavour, with the blessing of God, to regain the character she had tarnished by her career of vice in this." Having ceased his admonition, he was rather taken aback by the damsel's inquiry, "Ah, thin, plase your lordship, whin do we sail?"

Clare has furnished many very eminent members to the Munster Circuit.

Sir MICHAEL O'LOGHLEN, late Master of the Rolls in Ireland, was a native of the county, and his distinguished sons, Sir COLMAN, Sir BRYAN, and MICHAEL, were all at the bar.[1] The late amiable Right Hon. Sir Colman Michael O'Loghlen, Bart., Serjeant-at-Law, represented his native county in the House of Commons. The Hon. Matthew Finucane, Judge of the Court of Common Pleas in 1794, was also a Clare man, while the talented family, the Henns, of Paradise, Kildysart, have furnished a number of eminent lawyers

[1] For memoirs of Sir Michael and Sir Colman O'Loghlen, *vide* "The Irish Bar," chap. xxiv.

who have worthily sat upon the judgment-seat. This family are descended from Chief Baron Hene, whose patent bears date 11th March, 1679.[2] This judge's great grandson, William Henn, second son of Thomas Henn, Esq., of Paradise, County Clare, was appointed one of the judges of the Court of King's Bench, 1st August, 1768. The judge's only son, William, was born in Paradise, and was appointed a Master in Chancery. He married Miss Lovett, sister of Sir Jonathan Lovett, of Lipscombe Park, Buckinghamshire, Bart. William, the eldest son of this marriage was a member of the Munster bar, and continued so until he also became a Master in Chancery, when his brother, Jonathan Henn, joined the Munster Circuit. Perhaps no greater proof of the uncertainty of professional success at the bar can be given than in the career of Jonathan Henn, Q.C. He had joined the Connaught Circuit, and went its round for ten years without a brief. When his elder brother became Master Henn, Jonathan changed from the Connaught to the Munster Circuit. He shortly found a marked change in his professional prospects; briefs came in in shoals, and when I joined he was confessedly the foremost man on the Munster Circuit.

This family is now worthily represented by my esteemed friend THOMAS RICE HENN, Esq., Q.C., Recorder and Judge for the county of Galway.

Besides those I have enumerated, many others claim mention. The present learned and amiable Baron Fitzgerald is, I believe, a Clare man. Mr. Peter O'Brien,

[2] Smyth's "Law Officers," p. 142.

another worthy member of the family of Hon. Judge O'Brien, bids fair to sustain the credit of his ancient race. Nicholas Purcell O'Gorman, Q.C., for many years chairman for the county of Kilkenny, was a native of County Clare. We shall refer to him later on.

The journey from Ennis to Limerick, now traversed by rail, was formerly a pleasant drive of a few hours through a picturesque and interesting country. The last time I traversed this road was in company with a highly intelligent magistrate[3] of Clare and his accomplished wife. They were anxious to show me some beautiful ruins; and as a brief notice of them may serve to present a variety to the events we shall presently relate, I venture to give them place, as forming part of the Munster Circuit. Mr. Frost told me much about Ned Lysaght. Many members of the family are buried in the churchyard of Kilfenora. He copied one inscription, which is thus carved on the stone: *Non quisquam depandavi me sœpe fefelli Marte Baccho Venereque tributa dedi Patricio Lysaght obiit* 1712. *Ætatis sua* 85."

While thus conversing about the natives of Clare, the stately remains of Quin Abbey came in view. Beautiful in decay, how noble must it have been in the days of its pride! I could not help thinking how little is known of the pious inmates of these cloistered walls, which in so many places in Ireland adorn the scenery. It is not so with the owners of feudal castles. Bunratty has its history, Creggan its story, but I failed to discover much about the Abbey of Quin. Possibly, the different ways in which the occupants passed their time

[3] My excellent host James Frost, Esq., of Ballymorris, High Sheriff, County Clare, 1879.

may account for this. The warrior chief passed his days in war or rapine, taking enemies in the field, or preys of cattle from the plain; while the peaceful and uniform lives of the monks went tranquilly on, as the river that flowed beside them; and there was little to hand down to posterity save accounts of their piety or charity. With such thoughts we drove swiftly on. Having passed through the village of Quin, we reached the magnificent ruins of Quin Abbey. It was evidently one of the finest buildings in Ireland, and pleasantly situated on the banks of a clear rapid stream. This rivulet tumbles over the rocky bed with the same heedless impetuosity as it did centuries ago, when matin song and vesper hymn told, in notes of prayer and praise, the dawn and close of day. Sad and forsaken are the ruins now. It was not without a sigh over fallen greatness I mounted the broken steps leading to the interior. Judging from the outward walls, I was led to expect a rich treat of ecclesiastical architecture when I passed within. Nor was I doomed to disappointment. When I reached the portal I paused to contemplate the spacious church, for the eye looked through the chancel-arch to the lofty mullioned window over the high altar, which still retains its place, though generations have passed since abbot or friar offered sacrifice there. Altars also yet stand on each side of the chancel-arch, and an arch of noble span opens the chapel to the south, most probably the lady-chapel. Here some altars yet remain. In the middle of the church, between the space in front of the high altar and the entrance, is a lofty tower, still showing its beautiful proportions to the surrounding country.

Many remains of former decoration still survive the wreck of time and disfiguration of man. "The Annals of the Four Masters" inform us the monastery of Quin (Cuinche) was founded for Franciscan friars by Lioda Cam McNamara in 1402, but Father Wadding claims a yet earlier date for this foundation.

Be that as it may, to the house of McNamara belongs the fact of placing the friars of Strict Observance in this beautiful monastery, and the tomb of the founder still remains, close beside the high altar. The canopy over the tomb bears traces of rich sculpture in gothic carving and five clustered pillars, the sharpness of outline and solidity of execution bidding defiance to time. The inscription, in the gothic character, is not easy to decipher, but a more recent one is sheltered beneath the canopy. It is surmounted by the arms of McNamara, anciently a very powerful sept in Thomond, and still represented by several families of distinction. This tells us the monument was erected in 1433, by Macon Dall McNamara, Lord of Clancoilean, and was repaired by Captain Teage McNamara of Rannee, in 1714.

I am happy to learn that some effort is about being made to rescue these noble ruins from the neglect and desolation in which I beheld them.

We next reached Six-Mile Bridge, called in Irish Amhain O'Gearna, from the river flowing through the country of the O'Gearneys, or O'Kearneys. A chapel and vicarial house of the Dominicans stood here in former days, but no traces linger now. Though the village is well situated, it does not show any signs of present prosperity. Some years ago, when Colonel Vandeleur contested the county of Clare on Conserva-

tive principles with the Liberal candidates, a melancholy collision took place here between some men conducting Colonel Vandeleur's voters to the Court-house to poll with the country people. The military was ordered to load with ball, and fired among the people, and several lives were lost. A varied line of country brought us to a broad lake reposing beneath a ridge of mountains; and from its brink, boldly situated upon a lofty rock, rose, massive and strong, the tower called Creggan.

A few years ago this ancient specimen of a chieftain's stronghold was a mouldering ruin; sheep roamed at will from postern to bastion, the mountain goat cropped the ivy that clustered on its walls, or the grass that grew over the empty moat; but its picturesque site and capabilities attracted the notice of an English clergyman, the Rev. John Harvey Ashworth, and, by the expenditure of a very considerable sum of money, and an equal amount of architectural skill, he has converted this fast-tumbling ruin into a strong tower, likely to form for ages a comfortable dwelling. My host and I scambled along the rough valley, watered by the lake, over which stands the rock, crowned by the tall tower. The castle, almost inaccessible, was surrounded on three sides by the lake, and then defended by a moat, now dry. There was no tower or outwork that I could trace, and on gaining entrance we found ourselves in a good-sized hall, fitted up with a modern kitchen range and other appliances for cooking, of which the O'Briens or McNamaras of former days had no experience. Instead of the spiral steps of stone leading to the rooms over-

head, we mounted wooden steps, and soon beheld a goodly apartment, wainscoted with oak richly carved; bay windows of plate-glass afforded excellent light and extensive views of the surrounding district. Yet higher, we visited smaller chambers, evidently intended for bedrooms, but the good taste which regulated the rooms below did not soar so high. Common bedroom paper, of poor design, formed a strong contrast to ancient doors and stone casements. We climbed to the roof, and here my host pointed out the Broadfoot Hills, the castles of Dangan, Kilkishan, Knappogue, and the beautiful ruin we lately visited, Quin Abbey.

Creggan Tower formerly belonged to the celebrated associate of O'Connell, Tom Steele. His mansion, Cullane, lay in the valley beneath; but this accomplished and very eccentric individual preferred to occupy the solitary tower, even before its present renovation, to his more comfortable house. He meditated restoring Creggan, but his eager desire for political notoriety caused him to abandon house and land, and to devote all the energies of his ardent nature to advance the cause of what he deemed nationality. This left the restoration of Creggan Tower to an English clergyman, whose taste and judgment is most creditable. How I wish other ruins in Clare and other counties in Ireland fell into equally competent hands desiring their restoration.

Our road was next over a rich and well-cultivated country; but not far off were the wild and rugged hills separating Clare from Galway, and the Shannon flowed along lovely banks, fed by many tributaries. Some were rapid mountain streams, tumbling over beds of

rock, overhung with waving trees, the leaves golden with autumnal tints. A venerable house, called Atterbury Lodge, was pointed out as we drove by. Its pointed gables and casemented windows, mantled with ivy, gave it an appearance strikingly picturesque. The name also indicated it owed its erection to other than Irish taste. I asked how it gained the name of the celebrated Bishop of Rochester, and my erudite host said, "After the Bill of Pains and Penalties had been passed against the Bishop, in 1723, he was sentenced by the Lords to be deprived of all his offices, banished the realm, and sentenced to death in case of return. He went to France, accompanied by his daughter. While in France, Miss Atterbury was married to the Rev. Mr. Morice, who had been a fellow-student at Oxford with William, third Earl of Thomond. This nobleman told his friend, the Rev. Mr. Morice, that he (Lord Thomond) had the right of presentation to several benefices in Thomond, and if Mr. Morice would accept half a dozen livings in Ireland he was quite welcome to them. This liberal offer was promptly accepted. The Rev. Mr. Morice became rector of a union of parishes in the vicinity of Six-Mile Bridge, county Clare; and he built this quaint and picturesque house, which he called Atterbury Lodge, after his distinguished father-in-law." It is at present on the property of my host.

Not far from this ancient edifice stands another, also belonging to my friend, and called "The Lodge," having formerly been a lodge or hunting-dwelling of the lords of Thomond. This also claimed my notice. It is a prettily-situated, convenient mansion, with well-

arranged rooms; but my friend's wife declined to occupy it, from the melancholy associations connected with its site. Clare, as well as its proximate county of Galway, was remarkable in the days when duelling was a common mode of settling all differences between gentlemen, for the number of its so-called affairs of honour. In Ireland, sixty years ago, no gentleman could take his proper place in the society of that day who had not "smelt powder," and the lawn of the lodge was a favourite place for such meetings. The occupant in the early part of the present century was Mr Samuel Spaight, sub-sheriff of the county Clare. A friend of his, Mr. Bridgeman, with several others, dined with him. After dinner one day, when the punch was circulating, a servant told Mr. Bridgeman "he was wanted outside." At the hall door Mr. Bridgeman saw his herdsman, who told him "a number of his cattle were sent to the pound for trespass, by orders of Mr. Spaight." Bridgeman, incensed at this proceeding, returned to the dining-room. "Sam," said he, "are you aware my cattle have been sent to pound?" "Quite aware of it. I told my steward not to allow any man's cattle to trespass on my property," replied Mr. Spaight. "Then you and your property be ——!" cried the enraged owner of the impounded beasts. "If I was not in my own house, and you one of my guests, I'd pound you," cried the master of the mansion. "Don't let your fastidiousness stop you, my tight fellow," replied Mr. Bridgeman. "If you're willing to go out, I'm at your service," said Mr. Spaight, rising from the table. "I beg your pardon, gentlemen, for leaving you for a

short time. Here, Mr. Bridgeman, are two brace of pistols, ready for use. Take your choice. Con McNamara will be my second, and I dare say Mick Malony will act for you." Both gentlemen nodded acquiescence, and the quartette left the room. The moon shone clear as a noonday sun, and twelve paces of the ground were measured near the Lodge. The principals were placed, and the word "Fire" caused both pistols to explode. Mr. Spaight missed, but Mr. Bridgeman left his host quivering on the daisies. He received a ball in the seat of honour that lamed him for life.

A still more fatal encounter took place later, when a Mr. Howard fought Mr. Foley, and shot him dead. These incidents made such an impression on the lady's mind, she could not be induced to occupy a dwelling to which such memories were attached.

A few miles nearer to Limerick is Bunratty, on the bank of the river Ratty, a tributary of the Shannon. This regal keep, for centuries, was the chosen seat of the kings of Thomond. It is impossible to look upon its lofty towers, and sturdy battlements, soaring high above the surrounding woods, without being impressed with its feudal grandeur. The night was closing round as we mounted the steps leading into the vaulted hall, and ascended to the spacious chambers where the O'Briens of Thomond ruled in days of yore. When the Anglo-Norman invaders came to Ireland this was the site of the palace of Donald O'Brien, King of Thomond, and here monarch after monarch lived and died, until, in A.D. 1276, Edward I. made a grant of the barony of Bunratty to Thomas de Clare, who built the

castle and strongly fortified it. He had need to do so. The storm of battle speedily raged around Bunratty. The O'Briens rose in their might, and defeated the Anglo-Normans. They were pursued to the very towers of Bunratty, and forced to seek shelter within the walls of the fortress. Seldom a year then passed without fierce wars desolating the district, and history states that in 1322 the castle was taken and razed to the ground by the O'Briens of Thomond. It was again rebuilt by Con M'Shuda M'Namara. It soon again was held by the O'Briens, for it was in the heart of their kingdom, and remained in their possession until the reign of Elizabeth. In the year 1588 the army of the Earl of Essex, Elizabeth's unfortunate viceroy, besieged it. He took it by storm from Sir Donal O'Brien, whom he proclaimed a traitor. The castle was next given to one of the race of O'Brien, who did homage to England's Queen, and became Earl of Thomond. During the wars between Cromwell and the Confederated Catholics, Bunratty was stoutly contended for. It was captured by the Earl of Inchiquin, though bravely held by the troops of the Commonwealth; retaken by Lord Forbes, by means of a fleet sailing on the Shannon, when, according to Ludlow's "Memoirs," no less than two thousand pounds sterling were found buried in the walls, and as many as sixty horses were in the stables. A garrison of considerable strength, left here by Cromwell, was not able to resist the attack of the Irish under Lord Muskerry, to whom it capitulated on honourable terms after a siege of six weeks. Having sufficient light to survey the interior, we passed through the various rooms, which, until lately, were

occupied by the present possessor, Mr. Studdert's family. Traces of rich decorations remain, and the chapel, in one of the square towers, must have been especially beautiful.

As I stood upon the roof, and looked forth upon the ancient defences beneath, my thoughts reverted to those times when mailed chieftain and half-naked kerne contended for mastery in these halls, and the shout of "St. George" was answered by the "*Lamb laider enuchthur*"[1] of the O'Briens. Happily these days are over, and the ancient fortalice, once the seat of Thomond's kings, now shelters in one of its towers a few policemen of the Royal Irish Constabulary.

A short drive brought our carriage from Bunratty Castle to Ballymorris, the seat of my hospitable friends. Here the scenery is very fine; in front rolls the mighty Shannon, bearing numbers of white-sailed ships on their voyage, while the distant hills of the county of Limerick, the wooded slopes of Carrig-a-Gunnell, the ivy-mantled ruins of many a once strong castle, diversify the scene.

Having enjoyed the cordial greeting of my accomplished friends, I left them for Limerick. The old castle of Cratloe is on the route, and the historic city presents a very striking appearance. But Limerick demands a fresh chapter.

[1] "The strong hand uppermost," the motto of the O'Briens.

CHAPTER XVI.

Limerick.—A Witty Waiter.—Latin Version of Garryowen.—The Gardens of Sweet Billy Carr.—Chief Baron O'Grady.—Hon. Judge O'Brien.—Right Hon. Judge Barry.—Harry Deane Grady.—The Cathedral.—How to check a fervid Preacher.—The Bellfounder.

THE situation of LIMERICK is very striking. On every side ranges of lofty mountains rise to shelter it, and the fertile district called the Golden Vein dips into the hills. The broad bosom of the lordly Shannon displays a series of lakes as it rolls on its way to the sea. It spreads into a noble estuary some miles below the city. Then the city itself, with its historic castles, its famed walls, its ancient town, with its quaint old streets of gabled houses, built after the style so common in the old Flemish towns, the new portion of the city presenting so great a contrast to the old in its regular streets, its fine public buildings, its banks, churches, theatre, institutions, all excite the interest, the curiosity, and the admiration of the visitor.

As I have no intention of entering into competition with my able and worthy friend, Mr. Lenihan, in writing a History of Limerick, I shall content myself with noticing such features as fairly come within my province as the writer of the Munster Circuit.

The old "Head Inn" of Limerick was in Cornwallis Street. I presume it was here the Bar Mess was held

in ancient days. Mrs. Siddons, and other eminent actresses and actors, took up their abode here; the first coach, the "Fly," started thence on its four-day journey to the Irish metropolis. While I went circuit we frequented Swinburn's Hotel. This hostelry was a large, rambling house, wherein we were occasionally not over-well served. I remember once our attention being attracted by a venerable dish of pastry, from which the down was appearing like an incipient moustache. One of the Bar, I think the present Judge FitzGerald, inquired of one of the waiters, "How often has that dish been placed upon the Bar Mess table?" The Garryowen boy's face puckered with a smile as he replied, "Why, then, counsellor, 'pon my conscience I can't say, *for I was not here at the last Assizes!*" The dinners, however, were, as a rule, well served, and the famous Limerick salmon sure to be a popular dish. The judges were well lodged, and I can speak of their table being always well supplied.

At Limerick, until 1809, it was customary for the judges to be borne in sedan chairs, fully robed, from their lodging to the court-house. Should any of my readers be so juvenile as to have no idea what was the shape of a sedan chair, I may briefly say it was a capacious box, having inside a comfortable seat, with a door in front, about four feet high. It was lighted by a glass window. These chairs were covered with leather, and carried by two men—one in front and one behind—who sustained the chair and their fare by long poles. The chairmen moved at a pace of about four miles an hour. They are now quite obsolete.

The County Court-house was built in 1732. An

arched way led to a lane in St. Frances' Abbey, the site of the court-house. In 1750 a high gaol was built in the middle of Mary Street; the lower dungeons were placed in the basement; these, necessarily, were gloomy and unclean. Not only felons, but debtors and political prisoners, were condemned to these dismal cells.

Limerick has been famous for her gardens. Who has not heard of Garryowen? Here, in this Limerick Vauxhall, originated the acquaintance which culminated in one of the most foul murders ever disclosed during the trial of the perpetrators, as we shall see in due time. At present we wish to call the attention of our classical readers to a Latin version of the popular song of Garryowen, with its well-known chorus :—

"Instead of Spa we'll drink brown ale,
And pay the reckoning on the nail—
No man for debt shall go to jail,
From Garryowen in glory."

The *nail* was a stone pillar, set up in the Exchange, whereon debtors were wont to discharge their liabilities. The air to which the popular words were adapted is usually played after the Irish national tune of St. Patrick's Day.

The following was composed by Mr. T. Stanley Tracey, A.B., a scholar of Trinity, and is, I am sure, new to our readers. It was, I understand, quite extemporaneous, and not retouched :—

"Carmen Garryowenienses.

"O Baccheidæ impavidi,
Adsitis compotanti mi!
Ut decet vos fortissimi,
Ad pulchre concinendum.

CHORUS—Cervisiam fuscam pro aqua bibamus
Symbolam promptam illico damus,
Absit ut nexi in vincla eamus
Ex Garryowen insigni!

"Juvenes sumus qui talia curent,
Frangere lychnos dum splendidurant
Et Limericenses plateis jurant
Nos, cunctos depugnare!

"Fenestris domorum et foris cæsis,
Et ternis quaternis vigilibus læsis,
Signa inspiciat medicus necis,
Et illinantur vulnera!

"Ludentes pulsabimus omnem lictorem,
Prætorem urbanum et genus horum—
Nequis efflagitares debitorem
In Garryowen insigni.

"Virtus nostra famam quærit
Unde venimus nemo hæret
Quam nomine tuum terrorem ferat,
O Garryowen insignis!

"Johannes O'Connell procerus et fortis
Cujusvis oneris sudibus tortis,
Ex Garryowen ad Thomondi portas
Projiciet insignis!

"Sed Garryowen sublabi sivit,
Ex quo Johannes Corkagian ivit,—
Et Harry O'Brien vinclis salivit,
Coram Judici et Juratores."

It was not merely upon Owen's Garden Limerick rested her horticultural fame. Roche's "Hanging Garden," and those of Mr. William Carr, also were celebrated. Mr. Francis Wheeler, father of Lady

Bulwer Lytton, wrote some verses on these last-named gardens in 1809, which I quote here :—

"You may travel the nation all over,
From Dublin to sweet Mullingar,
And a garden you will not discover
Like the garden of sweet Billy Carr.

"'Tis there that the tall trees were planted,
In the days of the old Tommy Parr;
And the soft-winding Shannon is flowing
Round the garden of sweet Billy Carr.

"'Tis there the big praties are growing,
Enough to supply all Dunbar,
Where the soft-winding Shannon is flowing
Round the garden of sweet Billy Carr.

"His sisters, like sweet pretty posies,
More beauteous than roses by far,
They bloom like carnations and roses,
In the garden of sweet Billy Carr.

"Oh may they be happily married
To a mayor, and a lawyer, and tar;
How blest will they be when they're wed
With the sisters of sweet Billy Carr.

"Now if you've a mind to live frisky,
And trouble and grief you would mar,
I'd advise you to go and drink whisky
Along with the sweet Billy Carr.

"In a room, sir, he keeps a big bottle,
Without either crack, flaw, or star,
Which is often applied to the throttle
Of that thirsty gay soul, Billy Carr."

But we must turn to more serious subjects than the Limerick gardens, in which we have disported with the

local bards. I desire to preserve in our history the memories of some distinguished natives of Limerick who have been members of the Munster Circuit.

Chief Baron O'Grady was born at Mount Prospect, in the county of Limerick, on the 20th January, 1767. His family possessed considerable property in the county, and, as the young O'Grady displayed great talents, it was decided he was fit for the Bar. He became a student also of Trinity College, Dublin, where his career was highly successful.

Having been called to the Bar, his legal acquirements soon obtained him lucrative practice. He selected the Munster Circuit, where his extensive connexions backed him with their influence; but his legal knowledge put him soon in the front rank of the Bar.

He succeeded the Right Hon. John Stewart as Attorney-General on the 8th of June, 1802. The mad attempt to renew the rebellion of the year 1798, made by the enthusiast Robert Emmet, afforded the Attorney-General ample employment in the year 1803. He prosecuted the chiefs of that terrible *émeute*, in which the humane Lord Kilwarden, Chief Justice of the King's Bench, lost his life. Mr. O'Grady became Chief Baron of the Exchequer, in the room of Lord Avonmore, on October 19th, 1805. For the period of twenty-seven years Chief Baron O'Grady presided on the Exchequer Bench, then having both an equitable as well as legal jurisdiction. He was a great wit, possessed dry, caustic humour, great knowledge of human nature, and a sarcastic turn of mind. Some anecdotes display this.

An action on a bill of exchange, in which a coach maker was plaintiff, and a young officer defendant, was tried in Limerick before Chief Baron O'Grady. The bill was given by the defendant, and drawn for twelve months. Having reached maturity, and remaining unpaid, the coachmaker brought his action. The defence was, no consideration. The defendant clearly proved that the gig, which was sold to him as a new vehicle, was, on the contrary, an old, vamped-up conveyance, made to sell, the rotten wood covered with putty, painted and varnished, and so dilapidated it broke down in a week. The case having closed, the Chief Baron, in his richest brogue and comic humour, told the jury the bill had twelve months to run, but the gig had only one week to run, and, therefore, the jury could have no difficulty in finding their verdict accordingly. The defendant left court triumphant, and the coachmaker got back his dilapidated gig.

When trying a number of juvenile offenders, who had made a raid on a provision-shop, one having secured a couple of fowls, another a ham, and the third a loin of mutton, the Chief Baron observed to the jury, "The evidence shows the boys intended to have a picnic."

A young barrister, who attempted to address the jury in defending a prisoner, was so nervous he could only repeat, "My unfortunate client, gentlemen—— My Lord, in this case, my unfortunate client——" Finding the counsel unable to get on, the Chief Baron dryly observed, "Go on, sir; so far, the Court is with you." This quite extinguished the orator.

Few who were acquainted with Chief Baron O'Grady

were aware he possessed poetical talent. I subjoin a few lines from an unpublished poem, composed by him:—

> "When future bards shall sing of life,
> Its loves, its cares, and all its strife,
> The grace and moral of the song
> Shall to their checker'd fate belong
> Whose wayward fortune will supply
> The brightest tint and deepest dye;
> These soldiers yet unborn in pride shall raise,
> Relate their triumphs and renew their praise."

It is said Chief Baron O'Grady was the first to suspect that Mr. Leonard M'Nally, who, with Curran, chiefly defended the United Irishmen, was not as earnest in his defences as his high-minded and accomplished leader. It appears that M'Nally was actually for years in the pay of the Government. In a case where M'Nally wished to offer some observations to the Court, the Chief Baron said very significantly, "It would be better for your clients that you held your tongue."

In January, 1831, Chief Baron O'Grady retired from the Bench. Shortly after this he was created Viscount Guillamore. In the month of June, of that year, while residing in Stephen's Green, Dublin, he had a paralytic attack, which affected his speech and hand. He was, however, it was said, not very much influenced otherwise, for on the day it took place he was able to walk from his bed-chamber on the second story of his lofty house to his study on the ground floor, when he opened his bureau, and took a sum of money from it to give

Surgeon Collis—who attended him—his fee, and pay household expenses. He attended to his private affairs as usual, and, on the 1st of August, left Dublin for his country-seat, Rockbarton, near Limerick.

During the remainder of his life he was debarred from any prolonged conversation, and could not write more than a word or two on a slate. To enable him to enjoy conversing with his family and friends, he had recourse to pocket vocabularies, in which were arranged alphabetically the words most constantly occurring in his daily intercourse. Then he referred to dictionaries to supply his meaning on more difficult subjects. He could use a slate to write a word or figures, and his family soon understood his looks or gestures. He visited Dublin occasionally, and on one of these visits was called on by his old friend the late Chief Justice Bushe. This was in July, 1836, and though the ex-Chief Baron was obliged to support his share of the conversation by means of the vocabulary, slate, and pencil, they were able to hold a conversation about old times, mutual friends, and to discuss the changes which had since taken place in the Four Courts. This lasted for about an hour.

It was about this time the will, which afterwards formed the subject of legal controversy, was prepared and executed by Lord Guillamore.

It appears that when his lordship's son, the Hon. Waller O'Grady, was at Rockbarton in March, 1836, his father informed him of his wish to have a new will prepared. By way of instructions for this proposed will, he pointed out to his son the alterations he wished to have introduced into a former will, also prepared by

Mr. Waller O'Grady under his father's directions, subsequent to his illness in 1831. His lordship previously executed a will in 1819, but the state of his family, and position, was totally changed in the interval; thus a new will becoming requisite, he resolved to express more carefully than in the former ones his testamentary dispositions as to every part of his property.

The draft will was accordingly prepared, executed as a will, and, on Lord Guillamore repairing to Dublin, this draft was laid before Mr. Serjeant Greene, then Solicitor-General for Ireland. Having perused and approved of the draft will, it was returned to Mr. Bagnall, Lord Guillamore's attorney, for engrossment. Having been engrossed, on the 2nd July, it was executed by Lord Guillamore and witnessed by Mr. Serjeant Greene, Mr. Carew Smyth, the Recorder of Limerick, and Mr. Bagnall. The will left about 10,000*l.* a year to his eldest son for life, about 400*l.* a year to each of his younger sons, 1000*l.* a year to his widow, and several legacies.

On the accession of Her Majesty, in 1837, the veteran peer attended a Privy Council at Dublin Castle, and took the usual oaths on the Queen's accession. He seems to have been very clear in his intellects with respect to money-matters. In 1838 an action was brought against him by one of his brothers, Carew O'Grady, who had been his registrar when he was Chief Baron, and he supplied the requisites for defending the action so successfully as to nonsuit the plaintiff. In the next year, not approving of the manner in which another of his brothers, Mr. Darby O'Grady, applied the rents of his estates, he removed him from the agency,

and, by power of attorney, appointed one of his sons, the Hon. John O'Grady, agent in his place.

Lord Guillamore's health had grown very infirm for some time previous to his death, which took place at Rockbarton, county of Limerick, on the 20th April, 1840. All the members of his family then in Ireland attended the funeral, and, on their return to Rockbarton House, the will of the deceased nobleman was found in a leather writing-case, in which he had been accustomed to keep valuable papers. It was then read aloud, and handed to the Hon. Waller O'Grady, who had been appointed executor. The will was proved on the 16th of May, 1840, and a suit was shortly afterwards instituted by the eldest son and heir-at-law of the deceased peer against the executor, for the purpose of having the probate which had been obtained by him in common form revoked, and administration granted to the eldest son of the personal effects of the deceased, as of a person dying intestate. This suit was tried before the Right Hon. Richard Keatinge, Judge of the Court of Prerogative in Ireland, on the 24th and 26th of February, 1844, and his judgment established the efficacy and validity of the will of the late lord, dated 2nd July, 1836. It was subsequently brought for trial in Limerick at the Assizes, when the jury found against the will, thus entitling the eldest son to the family estates as heir-at-law, and not as devisee.

Of those members of the Munster Bar who have gained the *otium cum dignitate* of the Bench, is one, born in the city of Limerick, who is associated with my early days—Judge O'Brien. His parents and mine were old and attached friends; and when he was a

pupil of the Rev. Dr. Hinks's school, at Fermoy, was accustomed to spend his Sundays and holidays at my father's. He was then very intelligent, and a great favourite with us all.

When the Rev. Dr. Hinks exchanged the Fermoy school for the Belfast Institution, I lost sight of my playfellow, but was duly informed of his brilliant career in Trinity College. Amongst other honours, he was a gold medallist in 1825. Having selected the Bar as his future profession, Mr. O'Brien, whilst a student in London, attended the chambers of the eminent equity barrister, afterwards Master in Chancery, Andrew H. Lynch. Here he was associated with other Irish law students, many of whom rose to great eminence. In these chambers Mr. O'Brien became acquainted with equity drafting and conveyancing, two branches of the great legal tree in which he greatly distinguished himself. Having completed his terms, he was called to the Bar in Easter Term, 1830, and soon became a member of the Munster Circuit. His eldest brother, John O'Brien, of Elm Vale, had married Miss Murphy, of Cork; his second brother, Peter, Miss Sheil, sister of the Right Hon. Richard Lalor Sheil; and his numerous connexions throughout Clare and Limerick afforded the young barrister the opportunity of displaying his great professional knowledge. Connected by close family ties with the eminent Clare solicitor, Mr. Cornelius O'Brien, M.P., and acting as counsel to Mr. Richard Scott, another well-known Clare attorney, Mr. O'Brien soon was in great and lucrative practice. He possessed indefatigable industry, ready apprehension of the bearings of the cases entrusted to him,

and the clearness and soundness of his views caused him to be in high repute as a chamber counsel. While at the outer Bar, he was in great request for the Masters' offices; and when he was named one of Her Majesty's Counsel, in 1841, he obtained leading business in the Four Courts, and on circuit. He was no orator, and his addresses to juries were never remarkable for beauty of composition, or grace of delivery, but they were clear statements of facts and apt expositions of the law bearing on each case. On the death of Serjeant Warren, in 1848, the Government conferred the vacant coif on Mr. O'Brien; and, while serjeant, he was selected to go circuit in a judicial capacity. The manner in which he discharged the important duties thus entrusted to his care evinced his fitness for the Bench, and in 1858, on the lamented death of the Right Hon. Judge Moore, Mr. Serjeant O'Brien succeeded him as one of the Judges of the Queen's Bench.

As his elevation to the Bench necessarily caused him to cease representing his native city in the House of Commons, the citizens of Limerick deemed this a fitting occasion for presenting Judge O'Brien with the following address:—

"Sir,—We cannot permit the political connexion which subsisted for so many years between the ancient city of Limerick and yourself, reflecting credit upon both, to terminate without giving expression to our sentiments of regret, and gratification at the event.

"We lament the loss of a representative of your fellow-citizens in the House of Commons, whilst we rejoice that the administration of justice has been con-

fided to so competent and upright a member of your learned profession, assuring the Queen's subjects of a trustworthy guardian of their lives, their liberties, and their properties.

"To many who have known you from your early youth, and observed your career to your present position, it appears that your example should afford a moral lesson to the rising generation, encouraging painstaking toil, exemplary private and consistent public conduct.

"Hoping you may long be spared to your country, your family, and your friends, we beg leave to offer you our hearty congratulations on your elevation to a judgeship in the Court of Queen's Bench."

Signed by men of all creeds.

In reply to this well-merited tribute, Judge O'Brien wrote:—

"It would indeed be presumptuous of me to think that I deserved the flattering terms in which you refer to my past career. They are to be ascribed far more to your over-partial kindness than any merits of mine. But, though undeserving of them, it shall be my anxious effort to justify, in some degree, your wishes and expectations for the future. The hope of doing so will be an honourable, and, at the same time, a powerful incentive to exertion and perseverance."

During the many years which have since elapsed, Judge O'Brien has fully sustained the hopes and expectations of the Limerick address.

The Right Hon. Judge Barry is another of the natives of Limerick who earned renown in the legal profession. His father practised as a solicitor, and finding the tastes

of his son aspired to the Bar, had him entered as a law student. In due course he was called to the Bar, and selected the Munster Circuit. Here his gentlemanly manners, playful disposition, and social qualities soon rendered him popular with the Bar, while his great ability in his profession earned him the confidence of that sharp-seeing class, the attorneys. He soon obtained considerable practice, and, while law adviser at the Castle, was very zealous in the discharge of his duty to the Government. He became unpopular with those who sympathized with the Fenian movement, and having represented Dungarvan in the House of Commons, on the writs issuing for a new election, found no chance of again regaining his seat. He became Solicitor-General, while the Right Hon. Edward Sullivan was Attorney-General for Ireland, and when that very eminent lawyer was appointed Master of the Rolls, on the untimely death of the Right Hon. John E. Walsh, in 1869, Mr. Barry became Attorney-General. He continued in office until the death of Judge Hayes, when he took his seat upon the Queen's Bench.

The celebrated Harry Deane Grady was of the Limerick O'Gradys, and represented Limerick in the Irish Parliament. His colleague was Colonel Vereker, who was a stanch anti-Unionist, while Harry Deane Grady supported it. He was taken pretty roundly to task for this, and accused of having sold his country. He replied, "It was a devilish lucky thing for him and his family that he had a country to sell."[1]

Of course every visitor to Limerick finds time to visit

[1] In reward for his vote he was made Counsel to the Revenue, with a salary of 1200*l.* a year.

the ancient cathedral, its time-honoured towers having traces of its having survived the shocks of war. During the sieges of Ireton and De Genkel, it was a mark for the artillery of the invaders, though it is said the latter general desired it should be spared, presenting such an ornament to the city. It served as a store for the garrison, where they placed their provisions, and appear, thoughtlessly, to have invited the enemy's guns, by causing cannon to be directed from its towers against the besiegers.[2]

In this ancient cathedral many monuments of great interest are placed. Time, and the ruthless hands of Ireton's troopers, have dealt hardly with many, but others are in perfect preservation, and the love for everything elevating human life in this world, or disposing it for a better in the world to come, which has pre-eminently distinguished the learned and accomplished Charles Graves, D.D., Lord Bishop of Limerick, my valued and respected friend, is a guarantee that every memorial of the past shall be carefully protected.

Many eminent preachers have awakened the hearts of the congregation to the fleeting nature of this life. Among the most celebrated was Dean Kirwan, son of the more distinguished Rev. Walter Blake Kirwan, who died in 1805. When first ordained, the Dean's talent for elocution was aided by instruction from John Kemble, the great tragedian, and the clergyman's style was regarded as quite theatrical. Like Sydney Smith, he used to strike the pulpit-cushion with such energy

[2] Leniham's "History of Limerick," p. 260.

as to raise a cloud of dust, enough to hide him from the congregation. This could not be allowed to continue, so one Sunday the Bishop, Dr. Jebb, invited him to lunch after preaching, resolved to give him a quiet hint.

"My dear young friend," said his lordship, "you are determined to save the sexton all trouble in dusting the pulpit-cushion, you beat it with such sweeping energy; and I am told Lady Palmer, who sat beneath you, was in a perfect agony, finding her new satin bonnet quite soiled, such clouds of dust fell on it."

The hint was not lost—the energy was toned down in future.

The Dean was unsparing in his efforts to moderate the love of the Limerick belles for dancing and ball-going. It is said he went to greater lengths than were necessary. On one occasion he gave special offence to the ladies present by the startling strength of his language, in which he reprobated their mode of dressing for the ball-room. Many left the church, and others, who remained, blushed as bright a red as the uniforms of the military gentlemen, whom, in unmeasured terms, he denounced.[3] *Apropos* of the Limerick belles, I conclude my notice of the attractions of the city by relating an anecdote of its "bells." They are said to have been cast by an Italian for a convent close by his home, in the sunny land of his birth. In the wars between the Italians and Spaniards, the bellfounder had the misfortune to lose his sons, who joined the army of Italy, and, having no other children, enjoyed, as the solace of his

[3] "Ireland before the Union," by Fitzpatrick, p. 243.

woes, the sweet tones of his bells. During a prolonged absence from his native village, the convent had been plundered and despoiled of its bells. This severed the tie which bound the old man to his home beneath the Appenines. He resolved to search the wide world over in hopes of hearing their sound once again. I tell what chanced in the graceful lines of Denis Florence M'Carthy :—

"A bark bound for Erin lay waiting: he enter'd like one in a dream,
Fair winds in the full purple sails led him soon to the Shannon's broad stream.

* * * * * * *

"Borne on the current, the vessel glides smoothly but swiftly away,
By Carrigaholt, and by many a green sloping headland and bay.
'Twixt Craloe's blue hills and green woods, and the soft sunny shores of Tervoe.
And now the fair city of Limerick spreads out on the broad banks below.

"Still nearer and nearer approaching, the mariners look o'er the town.
The old man sees naught but St. Mary's square towers, with the battlements brown;
He listens—as yet all is silent, but now with a sudden surprise,
A rich peal of melody rings from that tower through the clear sunny skies.

"One note is enough, his eyes moisten, his heart long so wither'd outswells;
He has found them—the sons of his labour—his musical, magical bells.

At each stroke all the bright past returneth, around him the sweet Arno shines;
His children, his darling Francesca, his purple-clad trellis of vines.

"Leaning forward he listens, he gazes, he hears in that wonderful strain
The long-silent voices that murmur, 'Oh, leave us not, father, again.'
'Tis granted, he smiles, his eye closes, the breath from his white lips hath fled,
The father hath gone to his children, the old campanero is dead."

CHAPTER XVII.

From Limerick to Tralee.—Tralee.—Anecdotes of O'Connell, Kerry barrister; Cork.—Curious account of statues in Cork.—Eminent Members of the Irish Bench, natives of Cork.

FROM Limerick to Tralee there were many modes of proceeding, by coach, or by boat, to Tarbart, and thence by road to Tralee. Those members of the Bar who had plenty of time, and did not fear to encounter the motion of the water, enjoyed the fine scenery of the Shannon, and went by boat. The Shannon washes the banks of many handsome seats in the vicinity of Limerick, as it flows westward, and, at a distance of about thirty-five miles below the city, it expands into a noble estuary about twelve miles across. On the Clare side nestles the town of Kilrush; on the opposite shore, where the counties of Kerry and Limerick approximate, is built the town of Tarbart. On this side is the village of Glyn, whence a yet flourishing branch of the once puissant house of Desmond takes its knightly title. Tarbart lies about twenty-five miles from Tralee, and is well situated on the south bank of the Shannon. At the commencement of the present century it was an inconsiderable place, but increasing commerce has added to its wealth, increased its size, and improved its appearance. It has now expanded into a thriving town, and many handsome mansions have sprung up in its neigh-

bourhood. There was usually a pleasant party on the coach as we proceeded from Tarbart to Tralee, passing through Listowel, which gives the title of Earl to the family of Hare. The Earl does not reside in Kerry, where his estates are situated, but at his charming seat, Convamore, on the banks of the Blackwater, county Cork.

TRALEE, the assize town of the county of Kerry, derives its name from the strand of the Leigh, a small river which discharges itself into Tralee Bay. This river is very deceptive; for, small as it glides along in summer, when swollen by the mountain streams in winter, or after heavy rain, it is a source of danger and terror from its sweeping floods. In Queen Elizabeth's time the Earl of Desmond, who claimed the title of Palatine of Kerry, denied the right of the Queen's judges to hold assizes here, and when the Lord Deputy proceeded to visit him in his castle at Tralee, Desmond attempted to capture him, as has been mentioned in our opening chapter. In 1579 the effort to hold assizes at Tralee resulted in the murder of the two provincial judges sent there to execute justice in the Queen's name, together with all their attendants.[1] A better order of things exists now, and no attempt at molestation awaits the Queen's judges on the Munster Circuit. The town of Tralee is picturesquely situated at the foot of a mountain range about a mile and a half from the bay. The site being low, subjects it to occasional floods, and these are sure to occur when the spring tides from the bay throw back the streams flowing into the Leigh from the mountains. The chief street is a straggling

[1] Lewis, "Top. Dict., Kerry."

one, over a mile in length, from which several smaller ones diverge. A pretty promenade is formed by the continuation of Denny Street, where the old castle of the Desmonds was placed. Clubs and reading-rooms are situated in this street, and considerable trade is carried on by the mercantile community. The court-house, near the east end of Denny Street, is a very fine building. It replaced one much inferior in appearance and convenience. The entrance is beneath a Grecian portico, approached by a flight of spacious steps, surmounted by a well-designed pediment. The accommodation for the purposes of business, and rooms for the judges and the Bar, are well arranged. The gaol is a substantial building on the radiating principle, with accommodation for over two hundred prisoners.

There is a racecourse at Tralee, where, in the year 1805, a somewhat novel match took place. The articles for this match, we are told, had been drafted by counsel —no other than Daniel O'Connell.

I do not remember any other case in which the articles of the race were drawn by counsel, though questions respecting bets have often been subjects of litigation. The late Professor Barry once amused Judge Ball by an application on behalf of a man who was a dealer in horses and sugar-sticks. The incongruity of his avocations struck the judge. "What a strange junction of trades!" said Judge Ball.

"I see a close resemblance between horses and sugar-sticks," said the witty barrister.

"In what way?" inquired his lordship.

"The more you lick them the faster they go," was the reply.

The natives of Kerry who have gained celebrity at the Irish bar are not many, but of these one stands forth pre-eminent—Daniel O'Connell. For several years he went the Munster Circuit, and gained the reputation of being the best criminal lawyer in Europe. He was called to the bar in the troubled year of 1798, and having relations in almost every county in Munster, he naturally selected the Munster Circuit. He had great personal and physical advantages. A fine, well-developed figure, clear blue eye, features expressive of keen intelligence, and a voice of great power, now rolling like tones of a grand organ, bursting forth in thunder, then dying away into deep pathos, rushing into rapid declamation, or, if engaged in denunciation, pouring forth epithets strong, fierce, and stinging. He was well versed in the technicalities of his profession, and soon his large practice, and the necessary reading it involved, made him a first-rate advocate. Then he possessed a wonderful knowledge of his countrymen; and who can compete with a Kerry man? He was irresistably comic when a joke was needed, and no man was more sarcastic when vituperation was required. He was extremely vigilant, and never lost a case through inattention.

It was, I believe, at Tralee he completely silenced an attorney who defied all gentle rebuke. This individual possessed a love for fighting not inferior to the Scotch terrier, that lost his appetite when he had "naethïng to worrit." "His person" we are told,[1] was indicative of his disposition. His face was bold, menacing, and

[1] Madden's "Revelations," p. 3.

scornful in its expression. He had stamped upon him the defiance and resolution of a pugilist. Upon either temple there stood erect a lock of hair, which no brush could smooth down. These locks looked like horns, and added to the combative expression of his countenance. He was fiery in his nature, excessively spirited, and ejaculated, rather than spoke, to an audience; his speeches consisting of a series of short, hissing, spluttering sentences, by no means devoid of talent of a certain kind. Add to this, that the gentleman was an Irish attorney, and an Orangeman, and the reader may easily suppose that he was a "character."

Upon the occasion referred to this irrepressible attorney gave O'Connell great annoyance. He interrupted O'Connell several times; he improperly addressed the witnesses as they mounted to the witness chair, and, altogether, was quite unruly. The counsel engaged with O'Connell tried to keep him quiet; more than once the judge severely rebuked his improper interference, it was all in vain; up he would start, like a Jack-in-a-box—hiss out some remark which was sure to provoke O'Connell. At last, when O'Connell was pressing a hostile witness with a vital question, which the witness was seeking to evade answering, and this individual again interfered, as if for the purpose of annoyance, O'Connell, losing all patience, scowling at this man with a stern countenance, shouted in a voice of thunder, "Sit down, you audacious, snarling, pugnacious ram-cat." We are told the words were no sooner uttered than every one in court saw the truth of his words. Judge, jury, counsel, attorneys, were convulsed with laughter. The judge extremely enjoyed the happy epithets, which

completely suited the combative attorney, who gasped with suppressed rage. He bore the *sobriquet* of *Ram-Cat* for the rest of his natural life.

When O'Connell was first called to the bar, Limerick was then much disturbed by Whiteboys, and he had usually the dock to defend, one of the officials in the gaol of that city engaging him for that purpose. The other counties also felt the benefit of his talents; and throughout the whole circuit he was pre-eminently the prisoners' counsel. When he became distinguished as a nisi prius lawyer, he was not able to devote as much of his time to criminal business as formerly; but so long as he would accept these briefs no one else would be retained.

Among other members of the circuit, natives of Kerry, George Blake Hickson, Q.C.; the late John Leahy, Q.C., chairman for some years for the county of Limerick; Thomas Gallway; J. C. Neligan, Q.C., the highly respected County Court Judge of Westmeath; George Raymond; Rickard O'Connell; Hewson; Ponsonby,—occur to my mind.

Our route to Cork usually induced us to visit, and re-visit, the lovely Lakes of Killarney, and the source of the Lee. All this scenery has been repeatedly described by competent pens, but nowhere is the scenery of the Lee better described than in the beautifully written account of the Lee in the pages of the DUBLIN UNIVERSITY MAGAZINE,[3] the production of one whose writings confer alike instruction by their learning, and delight by the grace and charm of

[3] Vol. xxxi. p. 626.

a perfect style. To these pages we recommend our readers.

Cork, the last and chief town on the Munster Circuit, is called from the corcagh, or fen, on which it is built. The principal street, Patrick Street, is built over a branch of the River Lee which formerly intersected the city, like the canals of Venice; and now, in seasons of flood, the river asserts its power, and converts the streets into miniature canals. There has been very considerable improvement in the appearance of the capital of Munster of late years. In Patrick Street, the statue of the Apostle of Temperance reminds the citizens of the benefits conferred by that humble friar, a fact which the votaries of Bacchus seem very much disposed to ignore. At the end of Patrick Street, to the left of the Grand Parade, Great George's Street branches to the right, and the court-house is built at the end of Great George's Street. The splendid Corinthian columns supporting the portico won the applause of Lord Macaulay, who declared "they would do honour to Palladio." There are two courts, with rooms for the Bar, and spacious grand jury rooms, and long passages, with several offices and apartments. In the county grand jury room is a wooden statue of King William III., which, according to Mr. Windele, was originally intended for his father-in-law, James II. This statue, on the defeat of the Stuarts, was first decapitated, and then hidden away beneath the stairs of the old court-house, called the King's Old Castle. When this building was being repaired, in 1806, the mutilated statue of King James was found, taken from beneath the stairs, placed in the grand jury room, and the headless trunk perfected with

the *head of William III.* From this room it was removed to the grand jury room in the present court-house in 1836. Statues seem not much in favour in Cork. The statue of Admiral Lord Hawke, which was ordered by the Corporation, was left on the artist's hands, and purchased by the Marquis of Thomond. His lordship placed it near the battery at Rostellan, with its back to the ungrateful city. It is now in the hall of that noble mansion, amid a collection of weapons and curiosities amassed by the present estimable owner, Dr. Wise.

A statue voted by the Corporation of Cork to Lord Chatham, was also ignominiously treated. His lordship so lauded the city and citizens for their support to his views of state policy, that, in a fit of enthusiasm, they voted him a statue, and the freedom of the city in a gold box. But on some occasion, when the conduct of the great statesman was not such as the Corporation approved of, and Cork was referred to as censuring him, he is stated to have said, "Quote Cork against me, forsooth! What do I care for what is done in Cork, that refuge for pirates, that spawning-ground for smugglers, and prolific nursery of privateers?" These strong terms so incensed the citizens that they stowed away the statue in a wooden box, from which it has recently emerged, and now adorns the Cork Athenæum.

The environs of Cork afforded the members of the Munster Circuit many agreeable tours—to Blarney, Cove now Queenstown, the lovely Carrigaline river, Rostellan, Aste Ferry, &c. These localities are so familiar to my Munster readers, that it would be waste of time to attempt any description of them. The Bar Mess in my time was held at the Imperial Hotel, and the excellent

fare provided for us, and the attention of the proprietors and waiters, evinced their gratitude for our preference. In the neighbouring South Mall the judges had their lodgings, and they too were well catered for.

I have now gone through the circuit towns, and proceed to mention some of the natives of Cork who have gained merited distinction in our legal history:—

Sir Richard Cox, Lord Chancellor of Ireland, was born at Bandon, in the county of Cork, March 25th, 1650.

Alan Brodrick, Lord Midleton, Lord Chancellor of Ireland, was born at Midleton, in the county of Cork, about 1660.

Barry Yelverton, Lord Avonmore, Lord Chief Baron of the Exchequer, born at Kanurk, county Cork, in 1736.

Hugh Carleton, Lord Carleton, Chief Justice of the Common Pleas, born at Cork in 1737.

John Philpot Curran, Master of the Rolls, born at Newmarket, county Cork, in 1750.

Joseph Devonsher Jackson, Judge of the Common Pleas, born in Cork.

David Richard Pigot, Chief Baron of the Exchequer, born in Kilworth, county of Cork.

Rickard Deasy, Lord Justice of Appeals, born in Clonakilty, county of Cork.

Hedge Eyre Chatterton, Vice Chancellor, born in Cork.

Edward Sullivan, Master of the Rolls, born in Mallow, county Cork.

Robert Richard Warren, Judge of the Probate Court, was, I believe, born in county Cork; at all events he belongs to a Cork family.

Mounteford Longfield, Judge of the Landed Estates Court, born in county Cork.

John FitzHenry Townshend, Judge of the Admiralty Court, born in county Cork.

These are some of the natives of the Yorkshire of Ireland who have attained the dignity of the bench. There are a number of others, natives of the province of Munster, now winning fame and fortune at the Bar, to whom, I make no doubt, the future historian of the circuit will turn, and mention as adding to the illustrious men it has been my province to enumerate.

I now resume the detail of the business of the circuit for the early part of the present century.

CHAPTER XVIII.

Trials and Judges of Assizes.—Courts Martial in 1798.—Judge Mayne and Charles Kendal Bushe.—Sir William Cusack Smith.—Judge Fletcher.—Lord Norbury and his brother Judges.—Retort from the Bar.—Anecdotes.—Able Letter from Sir Arthur Wellesley (Duke of Wellington).

THE trials by court-martial during the year 1798 were constant. On the 6th of August of that year, one composed of officers of rank assembled in the Council Chamber of Limerick, for the trial of Horatio Townshend Orpen, and Richard Orpen, Esqs., of the county of Kerry, charged with aiding and assisting in the rebellion. The prosecution was conducted by Harry Deane Grady, with Messrs. Casey and Going, instructed by Mr. Meredyth Monsell. The prisoners were assisted also by counsel. They had Messrs. Hartwell, Jeremiah Keller, John and Stephen Dickson, and for their attorney Mr. Henry Hassett.

The case having wholly failed to establish the charge, the prisoners were acquitted. It is most probable this charge against members of a respectable family was instigated by private malice, as was found to be often the case in those troubled times.

The Munster Spring Circuit of 1806 was presided over by Judge Mayne and Charles Kendal Bushe,

then Solicitor-General. Of Judge Mayne there is not much to narrate. He is chiefly remembered by the remark of the facetious Jerry Keller, who, on learning that Edward Mayne, in 1805, was appointed a judge of the Common Pleas in the room of Judge Finucane, deceased, went into that court to look at him. The wit of the Munster Circuit having stared for a short time at the newly-made judge, was overheard saying, with a sigh, "Ah, Mayne, your *gravity* has placed you *up* there, while my *levity* keeps me down here." But of his associate on the Munster Circuit, there is, indeed much to record; yet as the name and fame of CHARLES KENDAL BUSHE have been already abundantly related,[1] I must try, in my remarks respecting him, to avoid going over beaten ground. His early career was indicative of future eminence. He was the eldest son of the Rev. Thomas Bushe and Katherine Doyle, sister of Major-General Doyle, Governor of Guernsey and Colonel of the Connaught Rangers. The future Chief Justice of Ireland was born at Kilmurry, in the county of Kilkenny, in 1767, and entered Trinity College in his fifteenth year. His career in our University was brilliant, and deserves to be remembered. He swept away all the honours in science and classics, and gained a scholarship in 1785, with eight first best marks. The best proof of his ability is evidenced by the names of those who were the competitors over whom he triumphed—Plunket, Graves, Tone, Magee. In the College Historical Society, Bushe acquired that oratorical excellence which

[1] *Vide* "The Irish Bar."

gained him the eulogy of a competent judge of public speakers. Of his talents Lord Brougham says,—"His power of narration has not, perhaps, been equalled. Perfect simplicity, but united with eloquence—a lucid arrangement and unshaken connexion of all the facts—the constant introduction of the most picturesque expressions, but never as ornaments—these, the great qualities of narration, accomplish its great end and purpose; they place the story or the scene before the hearer or the reader as if he witnessed the reality. It is unnecessary to add that the temperate and chaste and even subdued tone of the whole is unvaried and unbroken; but such praise belongs to every part of the great speaker's oratory. The utmost that partial criticism could do to find a fault, was to praise the suavity of the orator at the expense of his force."[2] John Kemble described him as the greatest actor off the stage.

He was called to the Bar in 1790, and for some time devoted his attention to literature and politics. He threw himself heart and soul into that Spartan band that resisted the waves of corruption, as they surged onwards to swamp the liberties of Ireland. His family were long known among the foremost of the friends of popular measures. Many had seats in the Irish House of Commons, and, from the days of the Revolution to the Union, were always ranged on the side of their fatherland. In 1775 Gervase Parker Bushe, then one of the Parliamentary leaders, took charge of the Perpetual Mutiny Bill, and the carrying of this measure

[2] Statesmen of the time of George III.

was in no small degree due to his talents and his patriotism. Incited by such example, Charles Kendal Bushe, when in 1797 he was elected member for the borough of Callan, county Kilkenny, at once took his stand in opposition to the Castle party, and his surpassing eloquence soon placed him in a prominent position in the House. The Irish Government were most anxious to enlist him in office, and in 1799, when his professional prospects and political ability were alike renowned, he was visited at his house in Baggot Street by two emissaries from the Viceroy, Lord Cornwallis, who, in the name of his Excellency, offered him the office of the Master of the Rolls, or that of law officer of the Crown. As Mr. Bushe was a decided foe to the then impending measure of legislative Union, he declined this flattering offer in courteous terms. He wrote as well as spoke against a measure he believed likely to be prejudicial to Ireland, and his pamphlet "Cease your Funning" is lively, yet forcible in the argument. It reminded Lord Brougham of the satires of Swift.

It is highly creditable to the British Government that when the victory over Ireland was won, and the Union an accomplished fact, the ministers did not allow resentment against the bitterest and most powerful antagonists to serve as a barrier against their professional advancement. The Right Hon. George Ponsonby, a resolute anti-Unionist, was appointed Lord Chancellor of Ireland in 1805; Curran, also anti-Unionist, became Master of the Rolls; Saurin and Bushe respectively Attorney and Solicitor-General; and Plunket was soon employed by the Crown. The eminence of Bushe at

the Bar was very much owing to his industry. He carefully prepared his speeches, and his tact and judgment were so great, that he seemed always carried away by his feelings, when he really was only speaking on behalf of his client. His expressions were always elegant, often forcible, yet their arrangement covered the weak parts of his case; and, if he was betrayed by his zeal into the use of language he had not prearranged, he managed so to amalgamate the extemporaneous with the prepared, that no one could detect the fusion.

While acting as judge on the Munster Circuit, he, for the first time, gave the Munster Bar indications of that ability as a judge, which in after-years distinguished him as Chief of the King's Bench. At Ennis, Limerick, Tralee, and Cork, there were many important cases tried before him, both on the civil as well as the criminal side of the court, and the rulings of the Solicitor-General gave very general satisfaction.

When the admissibility or rejection of evidence was to be disposed of, the Associate Judge showed very considerable knowledge of the rules which regulate that important branch of common law; and when it became his province to charge the juries, then his logical mind and remarkable powers of narration came forth in all their power and gracefulness. The Munster Bar—lately accustomed for a series of circuits, to the platitudes of Judge Day, the prosy charges of Baron M'Clelland or Prime Serjeant Browne,[3]—were

[3] Prime Serjeant Browne was the last who held this rank. On his death, in 1805, Moore was appointed First Serjeant.

delighted with the lucid and orderly manner in which the Solicitor-General presented the facts, as proved by evidence, to the jury. The cases were often complicated, the evidence often conflicting, titles to lands perplexing, and the links of evidence of the slightest. Under the perspicuous arrangement of the Associate Judge, the chaotic mass soon appeared to form a clear and logical sequence; everything of importance was put in its proper light; every irrelevant or unreliable piece of evidence estimated accordingly; and the jury, thus assisted, seldom failed to bring in a satisfactory verdict.

To the members of the Munster Circuit the Solicitor-General was linked by many ties of association and friendship. With some he had fought the battle of his country's legislative freedom; and, though they were defeated, the bonds of friendship were not weakened by that result. With others, he had long professional and social acquaintance, and these invited him among them with that pleasure which kindred tastes create and preserve. Bushe was a delightful companion. He had a fund of anecdote which he freely communicated, and the wits of the Munster Bar contributed their quota in return. Lysaght and Keller might have profited by one trait in the Solicitor-General; for while they would not scruple to say a sharp word if it raised a laugh, he was careful not to utter a syllable which could inflict pain. No one was ever more studiously free from malignity or personal vanity.

As it is not my province to refer to this great judge more, save as in connexion with the Munster Circuit, I must only further mention that he went the Munster Spring Circuit in 1815 as Associate to Judge Moore;

again the Spring Circuit of 1817 as companion to Judge Mayne; the Spring Circuit of 1818 with Judge Moore; the Summer Circuit of 1820 with Serjeant Joy; and the Spring Circuit of 1821 with Baron Pennefather.

The Solicitor-General was raised to the Chief-Justiceship of the King's Bench, on the resignation of Lord Downes in 1822. He never went the Munster Circuit after becoming Chief Justice. Bound to Kilkenny by ties of affection and property, he did not care to wander far from his ancestral home, and passed most of his vacations at Kilmurry. He continued to preside over the Queen's Bench for many years, and, on his retirement, was succeeded by the Right Hon. Francis Blackburne. Chief Justice Bushe died in 1843, sincerely and deservedly lamented.

In the Spring Circuit of 1807 the judges of assize for the Munster Circuit were Baron William Cusack Smith and the Hon. Judge Fletcher. It would not be easy to meet with two men more dissimilar in many respects. While Baron William Smith was courteous and genial in his manner, Judge Fletcher was remarkable for a brusque demeanour, nearly approaching to rudeness. A brief notice of these two judges, who have long passed away, may be desirable

Sir William Cusack Smith, Baron of the Exchequer, was born on the 23rd of January, 1768. He was the son of a judge and father of a judge; his father, Sir Michael Smith, having been first a Baron of the Exchequer, from 1793 to 1801. He was appointed Master of the Rolls, where he sat until 1806, when he was succeeded by the great ornament of the Munster Circuit, the Right Hon. John Philpot Curran. Sir Wil-

liam Smith was called to the Irish Bar about the year 1790, and in 1795 received the silk gown of King's Counsel. He then entered the Irish House of Commons, and continued a member of Parliament until the time of the Union. In that year, 1800, Mr. William Smith was appointed Solicitor-General, and it appears that the law officers in those days went circuit as judges; for in 1801 a very singular occurrence took place—father and son both going circuit as judges—Baron Smith and his son, the Solicitor-General.[4] On the 27th Decembor, 1801, the Solicitor-General became a Baron of the Exchequer, on the resignation of Baron Metge. On the death of his father, Sir Michael Smith, in 1808, the baron succeeded to the title of baronet, and assumed by sign manual, upon the decease of his mother, the name and arms of Cusack. He married Hester, eldest daughter of Thomas Berry, Esq., of Eglish Castle, in the King's County.[5] Sir William Smith was a very accomplished man, fond of society and of sitting up late, which often made him very late in court. His charges have been collected and published. One extract must suffice to give a specimen of his style. Alluding to the cordiality of feeling among country gentlemen produced and cemented by

[4] "Burke's Peerage."

[5] "The second son of this marriage was the late Master of the Rolls, the Right Hon. Thomas Berry Cusack Smith; he was a great lawyer, and an excellent but somewhat irritable judge. From the number of initial letters to his name, T. B. C. Smith, he was frequently called "Alphabet Smith," and, evincing some deficiency in literature, Archbishop Whately said "he was a man of more letters than learning."

partaking of the same field sports, when charging the grand jury at the Carlow summer assizes in 1833, Sir William said,—"I would celebrate the fox-cover, the racecourse, the preserve, as so many Runnymedes if we could sign there the great charter of national conciliation. I would cheer the steeplechase or the horse-race if concord was the latent goal, and on the flag of the winning-post were inscribed Harmony and National Conciliation."

JUDGE FLETCHER was originally destined for the medical profession, of which his father was an eminent practitioner. He was called to the Irish Bar in 1778, and had been such a diligent student, that few lawyers of many years' standing equalled him in profound legal learning. Yet his great knowledge remained for some years unsought, and he experienced that hope deferred making the heart sick, arising from roaming the hall term after term without briefs, or going from one assize town to another on circuit without practice. As I always thought that much of Dr. Johnson's surliness was owing to the terrible privations he had endured in his battle for fame, so it is very probable Judge Fletcher's mind grew irritable, his temper soured, and his manner rude, in consequence of the want of encouragement afforded him in these early days. Sir Jonah Barrington says, "He was a clever man, an excellent lawyer, but with a surly temper, combined with a kind heart and an honest, free-spirited principle, which never forsook him either in private life or as a public functionary."[6]

[6] Personal Sketches by Sir Jonah Barrington, vol. i.

There is, perhaps, no profession in which business comes—when it does come—more rapidly than the Bar. Lord Mansfield declared, in his case there was no gradation between nothing at all and 2000*l.* a year. I remember the present universally-respected Baron Fitzgerald without any court practice, and at a bound sharing the leading practice of the Court of Chancery with—and the worthy opponent of—Mr. Christian. A distinguished argument in the Court of King's Bench in 1782, when the advocate overpowered a corrupt Bench resolved to crush him, stamped upon Mr. Fletcher the mark of professional as well as public approbation, and thenceforth his fortune was assured. The Irish House of Commons opened its portals to the champion of popular rights, and during Lord Fitzwilliam's short-lived administration of the Viceroyalty of Ireland in 1795, Mr. Fletcher was nominated a King's Counsel. Though a consistent anti-Unionist, his political exertions were no bar to his promotion. In 1806 he was added to the Common Pleas judges, then comprising Chief Justice Lord Norbury, with Judges Fox and Johnson. Shiel, in his "Legal and Political Sketches," gives an amusing description of Lord Norbury and his yoke-fellows; and as they occasionally went the Munster Circuit, I may introduce the extract here. "Judge Fletcher's characteristic was moroseness,[1] rather than irritability; but he had an honest vehemence and impetuosity about him which, whenever his sense of propriety was violated, he could

[1] "Master O'Dwyer told me the judge had a country-house called Montrose, which the wits of Dublin, in allusion to his temper, always called *Morose*."

not restrain. When Lord Norbury was giving judgment (if the *olla podrida* which he served up for the general entertainment can be so called), the spectacle derived from the aspect of his brother judges furnished a vast accession of amusement. Judge Fletcher, indignant at all the absurdity which was thrown up by Lord Norbury, and which bespattered the Bench, began expressing his disgust by the character of bilious severity which spread over his countenance, of which the main characteristic was a fierce sourness and a scornful discontent. Judge Johnson, on the other hand, endeavoured to conceal his anger, and placing his elbows on the bench, and thrusting his clenched hands upon his mouth, tried to stifle the indignation with which, however, it was obvious he was swelling. After a while a growl was heard from Judge Fletcher, while Judge Johnson responded with a groan. But undeterred by any such gentle admonition, their incomparable brother, with desperate intrepidity, held on his way. Judge Fletcher had a habit, when excessively displeased, of rocking himself in his seat; and as he was of considerable bulk, his swinging, which was known to be an intimation of his augmenting anger, was familiar to the Bar. As Lord Norbury advanced, the oscillations, accompanied with a deeper growling, described the greater segment of a circle, and shook the whole bench; while Judge Johnson, with his shaggy brows bent and contracted over his face, and with his eyes flashing with passion, used, with an occasional exclamation of mingled indignation and disgust, to turn himself violently round. Still on Lord Norbury went, until at length Judge Fletcher, in his pendulous

vibrations, came into actual collision with him on one side, and Judge Johnson, by his averted shrug, hit him upon the shoulder on the other, when, awakened by the simultaneous shock, his lordship gave a start, and looking round the Bar, who were roaring with laughter at the whole proceedings, gave vent to his feelings in a succession of puffs."

Lord Norbury, like other justices, often met a response which he did not expect. When driving with a barrister named Parsons, they passed an untenanted gibbet, and the Chief Justice, turning to his companion, asked, "If that gallows had its due, Parsons, where would you be?"

"Driving by myself, my lord," was the ready answer.

Lord Norbury was not long without repaying Parsons. When the barrister was arguing before him, the loud braying of a donkey disturbed the court.

"Sit down, Mr. Parsons," chuckled the Chief Justice; "one at a time, if you please."

There are several amusing anecdotes current of Parsons. A barrister, whose son did not bear a high character, and had been lately robbed, meeting the former, said, "Parsons, did you hear of my son's robbery?"

"No, my dear friend," replied Parsons. "Do tell me. Whom did he rob?"

A country squireen, who was suspected of being a rebel, wishing to clear his character, said to Parsons, "It was rumoured that I sympathized with disloyalty, but such is quite untrue. It is well known, sir, I have a stake in the country."

"Faith, if you have, there's a pike at the end of it," said Parsons.

Both Baron Smith and Judge Fletcher were well acquainted with the sad state of Ireland at this period (1807), and frequently, in addressing the grand jurors, sought to impress upon them the great powers for doing good which resident landlords possess. These judges were uncommonly severe upon all who, taking advantage of their position of grand jurors, were parties to what was then known as grand jury jobs, and woe betide any magistrate or landlord who came within the lash of either judge, after seeking to wrong or oppress his inferior! No rank, no station sheltered the offender from condemnation and punishment.

The counties forming the Munster Circuit were in a very disturbed state in the year 1808, which caused the Irish Government much anxiety. Sir Arthur Wellesley (afterwards Duke of Wellington) was then at Cork, organizing a force for the Peninsula. He addressed a letter to the commanding officer at Limerick, so full of excellent practical suggestions, and displaying such wonderful sagacity and knowledge of the Munster Circuit, and those best qualified to give advice on emergencies, that I think it merits a place in our history. It is directed to "Brigadier-General Lee, at Limerick."

"*Cork, 7th July,* 1808.

"My dear Sir,—According to the desire which you expressed in the conversation I had with you at Lord Harrington's, I proceed to give you my opinion on the nature and circumstances of the command which you are about to exercise in the county of Limerick. In

the first place, I must point out to you that the situation of a general officer commanding in a district in Ireland is very much of the nature of a deputy-governor of a county or a province. He becomes necessarily charged with the preservation of the peace of the district placed under his command; and the Government must confide in his reports and opinions for the adoption of many measures relating solely to the civil administration of the country. From these circumstances, it is obvious that it is the duty of every general officer to make himself acquainted with the local circumstances of his district, and with the characters of the different individuals residing within it, in order that he may decide for himself according to the best of his judgment and information, and that he may not be misled by others. This duty will be the more obvious by a consideration of certain circumstances which exist in many parts of Ireland. It frequently happens that disturbances exist only in a small degree, and probably only partially, and that the civil power is fully adequate to get the better of them. At the same time, the desire to let a building to Government for a barrack—the anxiety to have troops in the county, either on account of the increased consumption of the necessaries of life, or because of the increased security which they would give to the particular part of the country—and cause a general rise in the value and rent of land which probably at that moment might be out of lease; or in some instances the desire to have the yeomen called out on permanent duty—occasions a representation that the disturbances are much more serious than the facts would warrant. Upon

these occasions letter after letter is written to the commanding officer and to the Government; the same fact is repeated through many different channels; and the result of an inquiry is generally, that the outrage complained of is by no means of the nature or of the extent which has been stated. The obvious remedy for this evil, and that which is generally resorted to, is to call for information on oath of the transactions which are complained of. But this remedy is not certain, for it frequently happens that the informations on oath are equally false with the original representation. The general officer then has no remedy, excepting by his acquaintance and communication with the magistrates and gentlemen of the county, to acquire a knowledge of characters, and to become acquainted with all the circumstances which occur. It frequently happens that the people who commit outrages and disturbances have reason to complain; but in my opinion that is not a subject for the consideration of a general officer. He must aid in the preservation of the peace of the country, and in support of the law; and he who breaks the law must be considered in the wrong, whatever may have been the nature of the provocation he may have received.

"In respect of the gentlemen of the county in which you are posted, I recommend you to attend particularly to the Lord Chief Baron O'Grady; you will find him well informed of the transactions of the county of Limerick, and well acquainted with the characters, and disposed to assist your judgment. I also recommend to your attention Mr. Dickson, the late High Sheriff of the county, and Colonel Vereker, the member for

the city of Limerick. There may be, and certainly are, other gentlemen in the county of Limerick on whose information you may depend. But I have requested Mr. Traill, through whom I send this letter, to apprize you confidentially of the names of those whom you ought to consult.

"Believe me, &c.,

"ARTHUR WELLESLEY."[8]

[8] Lenehan's "History of Limerick," pp. 123-4.

CHAPTER XIX.

Gallant defence of Highfort by Sir John Purcell.—Anecdotes of him.

At the Summer Assizes of Cork, in 1811, Maurice Noonan was indicted for that he feloniously and burglariously did break and enter, with intent to steal from the dwelling-house of Highfort the goods and chattels of one John Purcell in the said dwelling-house, then and being, and that the said Maurice Noonan then and there, in the said dwelling-house, in and upon the said John Purcell, in the said dwelling-house, feloniously did make an assault with intent to kill and murder John Purcell, against, &c.

The case was one of considerable interest, and attracted much public attention, and when the following facts were elicited on the trial, we cease to be surprised at this.

Highfort, the house in which the burglary was committed, lies in a secluded place between Charleville and Kanturk, in the county of Cork. This was the dwelling of John Purcell, Esq., a gentleman past the middle life, in the year 1811. He was a man of somewhat peculiar habits. Though much employed as a land agent and receiver of rents over extensive landed estates in his neighbourhood, he attended fairs and other places of

public resort, where he was sure to meet the tenants, and take from them their various rents without ever making any entry as to the parties who paid him. He gave the tenants memorandums of the sum paid, which he placed in a bag, and never gave a stamped receipt, though he charged for the stamps when accounting with his principal. He acted as agent for the Earl of Egmont, and for landed proprietors, and others, and was always most accurate in accounting for the rents. His family consisted of himself, his daughter-in-law, and her little child. His domestics were two maids and a servant-man. Though his house was in a lonely spot in the country, he had no fears of any one seeking to injure him, and considered himself highly popular and perfectly safe. He was soon undeceived in this respect.

He had a fatiguing day collecting rents on the 11th March, 1811, and it was long past dinner and tea-time as he rode home hungry and tired. Some cold meat and bread formed his solitary supper, which was served in his bedroom, and he told the servant-man not to sit up, as he need not remove the tray till next morning.

Mr. Purcell's bedroom was adjoining the parlour, on the ground floor. A door communicated between the rooms, but this had been nailed up, and some of the parlour furniture, chairs and tables, placed against it. There was access to the bedroom from a passage, which was preferred to going through the parlour to the bed-chamber. Having partaken of his supper, Mr. Purcell undressed and retired to rest. About one o'clock he was aroused by a noise, as if some one approached the windows of the adjoining parlour. He listened. The windows of the parlour were pushed in, and several

men climbed through. As well as he could judge, as each man came down with a fall on the carpet, he reckoned that about fourteen men had entered his house.

Mr. Purcell resolved to ascertain what they came for, and to defend his house. He arose, but was disheartened when he recollected all his weapons were in his little office, out of his reach, and the only implement available was the knife he used at supper, which lay on the table beside him. He found this knife before any attempt to enter his bedchamber was made. When thus armed, he heard the table placed before the nailed door dragged away, and the long-disused door was pulled open. Through the space the round, full, silvery moon looked brightly in from the open parlour windows, and while Mr. Purcell stood, shrouded in darkness, he saw a number of men, many of them bearing fire-arms, with blackened faces, as if for concealment, crowding the room. Purcell, knife in hand, stood motionless by the side of the open door until one of the burglars entered his bedroom. Swift and true, the blade of the knife was plunged into the intruder's body, and the robber reeled back amidst his comrades, swearing "he was killed." Another took his place to receive a like stab, and he too fell back, crying out "he was done for." Then some one who seemed to act with authority called out "Fire!" and the loud report of a short gun, or blunderbuss, was the reply. Luckily it did no more harm than lodging a brace of balls and a number of slugs in the opposite wall, while, almost ere the smoke cleared away, the intrepid Mr. Purcell struck the marksman with his knife and sent him also wounded to his companions. A rush was then made, which Mr.

Purcell had not counted on. He was resolved, however, not to flinch, and struck a fourth robber, when he received a blow on the head and found himself tightly grappled. The floor, rendered slippery by the blood so copiously shed, made footing insecure, so in the struggle Mr. Purcell and his adversary both fell. Still thrusting with his knife, the owner found it did not act as effectually as formerly, and, on passing his finger along the blade, was dismayed to find it was bent near the point. As he lay struggling with his foe, he tried hard to straighten the blade, and soon the hold of his assailant grew relaxed; he lay dead. This man carried a sword, which Mr. Purcell gladly seized as a substitute for the now useless knife. The gang, finding so many of their party killed or wounded, began to bear away the bodies on chairs through the parlour windows; the darkness in the bedroom prevented their seeing they were only opposed by one man. When all were gone, Mr. Purcell aroused his servant-man, who lay in his bed and never came to assist his master in this terrible conflict. The man was loudly reproached for his dastardly conduct. The daughter-in-law and child were placed in safety for the remainder of the night, but the attack was not renewed.

Next morning Highfort could not be accounted lonely. The news of the attack and gallant defence spread far and wide, and men of all ranks, creeds, and classes came to offer their expressions of abhorrence at the attack, and of admiration at the courage, bravery, and skill with which Mr. Purcell had acted. Instant search was made for the perpetrators. Mr. Purcell was sure he recognized one named Maurice Noonan,

who lived in his neighbourhood. He went himself to Noonan's house; beneath Noonan's bed was the gun fired the night before. Mr. Purcell identified it—a short gun with the butt broken off, and the barrel secured by a cord. This, of course, caused Noonan's arrest, and he admitted "Mr. Purcell had like to do for him." It transpired the party consisted of nine men, all armed. Two were killed in the affray, and three severely wounded. Some became panicstruck during the conflict, and fled, as they believed a strong force defended the house.

Noonan was tried at the Cork Assizes, found guilty, and hanged on the 9th September at Gallows Green, Cork. He acknowledged his guilt, but declared that on the morning of the day of the attack he had no idea of taking part in it; but, being sent for by another of the gang, he joined them in it. He never was engaged in any other attack.

When the Irish Government was apprised of the gallantry of Mr. Purcell of Highfort, from a laudable desire to manifest a sense of his courage, he was offered and accepted the honour of knighthood. He was called in the country "The blood-red knight;" by some "The knight of the knife."

A daring murder had been committed in his vicinity, and he took an energetic share in bringing the murderer to justice. The mode he adopted to identify the guilty person was creditable to his acuteness. Going to the house of the suspected criminal, Sir John Purcell asked "if he could see him."

"Oh, no; he's very sick," was the reply.

"I must see him," insisted Sir John.

He was then introduced into the cabin, and in bed was the man, "taken," he alleged, "with a bad colic."

"Let me see your shoes," was Sir John's next request.

"Och an' troth, they're gone to be mended," was the reply.

"What are these under the bed?" asked the inquisitive knight, seizing a pair of soiled brogues, the shoes he wanted.

Bearing away the shoes, he left the sick man well watched by a couple of policemen, while he repaired to the scene of the murder. It was winter, and congealed snow covered the ground. Sir John found many foot-prints, but enough to connect the sick man with the deed of blood; a nail was deficient in the heel of one of the shoes, and the tracks in the congealed snow showed a like want. This led to further evidence, until the guilt of the pretended invalid was satisfactorily established to the jury who convicted and the judge who pronounced upon him sentence of death.

Most probably these deeds made Sir John Purcell an object of dislike to the peasantry. While at a country fair, he received intimation "that his life was in danger, and he had better get home with all speed." Satisfied of the *bona-fides* of this intelligence, he put spurs to his horse, and soon a hot pursuit told him the warning was not made too soon. Being well mounted, he escaped to a farm-house, where he sought and found shelter.

On another occasion, when riding with a gentleman named Seward, near Mallow, both were hemmed in by a large party of Rockites. These men bade Mr. Seward "not be in dread, for 'twas Sir John they wanted."

They forced him to alight from the horse he rode, and, while considering what they could do to him, he said in a low voice to his friend Seward, "Your horse is better than mine; lend me yours, and I'll make a rush for it."

"Do, in God's name!" said Mr. Seward, jumping from the saddle.

He was no sooner out of it than Sir John was in, and, despite his fourscore years, leaped the next fence like a centaur. The Rockites ran here and there, but he was soon lost to them, and they wreaked their vengeance on Mr. Seward in making him ride to his house, *sans culottes*, sitting on a furze bush tied to the saddle.

CHAPTER XX.

Bruce *v.* Grady.—Plaintiff and Defendant.—"The Nosegay" trial.—A Stage-struck Exciseman.—O'Connell on Circuit.—Trial of Scanlan for the Murder of the Colleen Bawn.

At the Summer Assizes of 1816 the case of Bruce *v.* Grady, for libel, was tried in Limerick before Mr. Serjeant Johnson. Never in the legal annals of any country was a more powerful satire penned than the poem for which this action was brought. The plaintiff, George Evans Bruce, was a man of very considerable political influence. He amassed a very large fortune, and settled in the county of Limerick. He purchased in 1789 the estate of Hermitage, containing about 200 acres, from Mr. Waller, of Castletown, for the sum of 5000*l.*, and laid out at least 10,000*l.* more in building a fine house, planting, and improving the natural beauties of the place. He was of considerable use to Lord Clare as a political ally, and his lordship, when Chancellor, appointed him to the Commission of the Peace for the county of Limerick; but, it is said, Mr. Bruce was then so unpopular the other magistrates would not act with him. Bruce, however, seems to have conquered this prejudice, and in the year 1800 served the distinguished office of High Sheriff of the county. He disposed of his beautiful seat, Hermitage

in 1802, to Lord Massy for the sum of 20,000*l*. Mr. Bruce founded the Limerick Club, and became a banker in Limerick. His bank was No. 6, Rutland Street, the present auction mart. It was stated—perhaps untruly—that the money with which Mr. Bruce carried on his dealings as a banker in Limerick had been gained by gambling in London and Paris, and amounted to 90,000*l*. It was also related that while playing *quinze* with the celebrated statesman Fox, the latter, suspecting foul play, snatching a fork from the supper-table in the gambling-saloon, drove it with all his force into the hand of his suspected companion, exclaiming, "For 5000 guineas the five of clubs is under that hand!" On investigation this statement proved true; but the truth of the whole story is rendered apocryphal by there being no sign of any such wound on the alleged blackleg's hand. It was, however, stated Fox did not think all was fair play with the Limerick banker.

The defendant, Thomas Grady, Esq., of Belmont, was, as we have already seen, a barrister, a member of the Munster circuit, an Assistant Barrister, and possessed of a landed estate, with a suitable mansion called Belmont. That he was a gentleman holding considerable station in the county of Limerick may be inferred from his having filled the office of High Sheriff of that important county in the year 1805. He was—unfortunately for himself, but still more so for those he regarded as enemies—possessed of the *cacoëthes scribendi*, and as the literature of those times was not as moral as our own, his poems abound with indecent passages. He wrote the "Flesh-Brush" for Lady

Clare; the "West Briton," to support the Legislative Union between Great Britain and Ireland; he likewise spoke in favour of the measure at the meeting of the Irish Bar already mentioned. A poem entitled "Peace" was written by him; another called "Sir Phelim O'Shaughnessy." "The Barrister" and "The Two-penny Post Boy" are ascribed to him; but the poem which caused the greatest noise, and gave the author most trouble and cost, was his satire called "The Nosegay." He moved in the best society in Limerick, and was said to be a tuft-hunter. He told the following story of Dr. Bernard, Bishop of Limerick in 1799: —"I will never forget the impression this accomplished bishop made upon me the first time I ever sat in his company. It was at Lord Gort's. After dinner the conversation took a stupid turn upon our taxes, and particularly upon the window-tax, then lately laid on this country; and I threw in some stupid observations reprobating the tax, and lamenting the miserable fine of 6*l.* a year I had to pay for my house in Dublin. "Sir," says he, "you have no taxes; it is idle to talk of taxes in this country. Sir, I had a house once in London that lay in an angle of two great streets. By consequence it had two fronts, each very extensive, and with more than the ordinary proportion of windows to each front; and, sir, I had to pay for the window-tax of that house (I think he said) 80*l.*" This struck me with horror—*proximus ardit.* I had a prophetic anticipation of what has since happened, and in the state of despair arising from the *coup-d'œil,* I burst into the vulgar and indecent ejaculation of "Oh, blood and 'ounds." I saw in an instant the lawn sleeves

present themselves to my confounded imagination. I was sensible of the vulgarity and grossness I had committed, and I humbly asked his pardon. He saw I was degraded and humbled in my own feelings, and fixing his eyes upon me, which sparkled when he was going to be playful, and gave notice of the coming flash, "Well you may say 'blood and 'ounds,' sir. It was enough to make any honest man say 'blood and 'ounds,' sir. I can tell you, sir, it has made a bishop say 'blood and 'ounds,' sir." The whole table was convulsed, and I was redeemed by the wit, the pleasantry, and good nature of this admirable man.[1]

It is believed some unwillingness on the part of the banker to accommodate Mr. Grady with money caused the publication of "The Nosegay." Whatever the cause, it is impossible to conceive a more pungent and terrible invective. It represents Bruce brought to the bar of Justice and accused of a catalogue of crimes. I must content myself with a few extracts, as there is much not fit for publication. The satire commences with a description of the plaintiff brought before the court:—

"Come—for tardy Justice takes her seat,
Convicted usurer, convicted cheat;
In every mischief aider or abettor;
Self-vaunted infidel and tampering traitor;
In daring prime, in principles unbuckled;
Reluctant subject, voluntary cuckold,
See round the court of youths debauch'd a group
Who supp'd thy poison while they supp'd thy soup,

[1] Lenehan's "History of Limerick," p. 441.

Who haunt thy dinners, emulous to share
Thy half-digested extracts from Voltaire,
Whose finer taste thy sense could never hit,
Which caught th' impiety, but not the wit;—
Dinners, where mischief's never at a stand—
Atheist and sharper joining hand in hand,
Blest firm combining to engulf the whole,
To sink the property and damn the soul."

Having charged the plaintiff with every species of usury, the defendant says :—

"See on one side some vision-ruin'd boys,
Whose lands you mortgaged to sustain their joys,
Who pay for nights in these sad vigils spent,
A mild retribution of cent. per cent."

The account of the transaction with Fox is thus introduced :—

"But see aloft, and near the sheriff's box,
The black-brow'd spectre of poor Charles Fox.
See, with one hand his angry eyes he rubs,
And in the other holds—a five of clubs.
Some fools assert plurality of wives,
Thy doctrine was plurality of fives,
And by this doctrine, heterodox and rank,
You built a palace and you stock'd a bank,
But sold the palace, when no neighbour came,
Mark'd, while you lived there, mansion of ill-fame."

The satire then describes some female relationship of Mr. Bruce, which showed the reason why respectable ladies declined to visit at this mansion. Having discharged all the gall and venom of an implacable nature on the head of his victim, the satire concludes :—

"Oh! Heavenly Father, merciful and kind,
Subdue my passions, grant me peace of mind!

Peace with good men on earth to me be given,
And glory be to Thee, on high in Heav'n,
And if this world one atheist shall disclose,
The sacred balm of mercy interpose;
Place him by night where he may fairly hear
The ravings of this wretch's guilt and fear;
Atheist no more—reform'd he'll bend the knee
To truth and grace, to majesty and Thee."

Of course no man could rest under the lash of such a libel without bringing an action against the author. There was not much difficulty in discovering who the author of "The Nosegay" was, and proceedings were promptly taken. A declaration was filed, issue joined, and the case appeared in the list of records for the Limerick Summer Assizes of 1816. A very able Bar, composed of the leaders of the Munster Circuit, appeared on both sides. The counsel for the plaintiff were Mr. Goold, afterwards Serjeant and Master in Chancery; Mr. Pennefather, afterwards a Baron of the Exchequer; and Mr. Jackson, afterwards a Judge of the Common Pleas. For the defendant were Mr. Burton, Daniel O'Connell, Mr. Bennett, Mr. Meade Hobson, Mr. Furlong, Mr. Smyth, and Mr. O'Regan.

The jury was composed of the following highly respectable Limerick gentlemen:—

Hon. George Eyre Massy, foreman; Edward Croker, Stephen Edward Rice, the Knight of Glin, De Courcy O'Grady, Thomas Rice, Michael Scanlan, Edward Villiers, George Tuthill, John Greene, Robert Cripps, and Alexander Rose, Esqs.

The declaration, necessarily a long one, set out such

parts of the libel as it was proposed to prove, and the damages were laid at 20,000*l.*

Mr. Goold stated the case for the plaintiff, and gave the formal proofs usual in case of libel. The speeches for the defendant by O'Connell and Burton were very much repetitions of the alleged libel, and a host of witnesses to a considerable extent sustained the case for the defence. Among these were Mr. Bolton Waller, Thomas Lloyd, K.C., Mr. Webber, Mr. Evans, Mr. Ryves, and Mr. Vandeleur.

Mr. Pennefather replied for the plaintiff, and then the learned judge charged.

The jury, after some delay, found for the plaintiff. Damages, 500*l.*

These damages the defendant would not pay. To avoid being imprisoned for debt he went to Boulogne, where he died.

About the year 1820 smuggling was very extensively carried on in many parts of the South of Ireland. The jutting promontories, the creeks and bays along the coast of Kerry and Cork favoured contraband trade, and the want of an organized revenue police gave great scope to the removing of goods which paid no duty. Tobacco was a favourite article for smuggling, and it is said many families along the coast were enriched by the sums amassed which they embarked in this unlawful business.

At length the Government resolved to try and check it, the Custom House officials sent a revenue officer to Dingle, with orders to seize the offenders and bring them to trial. This officer was a Mr. Flood, who had, at one time, filled a subordinate position in the Crow

Street theatre in Dublin. He possessed a great memory for plays, was accustomed to repeat many scenes verbatim from the principal dramatists, and successfully mimicked the most eminent actors of the day.

However active Mr. Flood might have been as a revenue officer under authority, he seemed indisposed to much exertion when left to himself. He preferred the exhibition of his histrionic powers, and the good fellowship of the Dingle youths, to watching the rough sea waves, or the smuggling of cognac brandy, or Havannah cigars. He got up private theatricals in Dingle, and soon enlisted a numerous *corps dramatique*. Suppers soon followed the theatricals, and Mr. Flood was very ready to give as well as take. These festive repasts were frequent. Fowl were scarce, they were essential for the suppers, and Flood was not over particular how they were procured. The jovial suppers despoiled many a hen-roost and poultry-yard, and their frequency denoted the conviviality of Mr. Flood.

Soon reports of his doings reached head-quarters, and Mr. Flood received a friendly hint that unless he gave some prompt proof of his zeal for the revenue, his services would be dispensed with on the Kerry coast. Fortune favoured him. A wholesale smuggler, named Connor, was caught in a midnight attempt to discharge a cargo of smuggled tobacco. The cargo, a valuable one, was seized by Flood and his men. They captured forty horses, each laden with a huge bale of tobacco on either side, and a third poised on the back of each horse. This was a seizure to set up Flood. The informations privately made against him were attributed to malice, and he was rewarded liberally. Connor was

lodged in gaol, and was to be tried at the Tralee Assizes. The offence was expected to be fully proved, and that Connor would be transported for fourteen years. His family at once retained O'Connell to defend him in the court-house of Tralee.

The chief witness against him was Mr. Flood, and to incapacitate Flood from being such witness was the object of Connor's friends. They knew the disposition of their man from frequent convivial association, and took their measures accordingly. As the assizes came on they plied him with all sorts of liquors—whisky, brandy, gin, and rum. He was kept in a state of maudlin drunkenness to the day of the trial. Still he was not incapable of telling his tale of the capture coherently. He described how he lay in ambush, and arrested Connor and the contraband goods.

Having concluded his evidence, he was about leaving the witness-chair, when O'Connell, in his full-toned, mellifluent voice, recalled him, with, "Come back, Alonzo." He knew Flood well as an *habitué* of Crow Street theatre, and was well posted up in his history. Flood's stage passion was stirred, and as he sat down he smiled on O'Connell, as he repeated, "Alonzo the brave and the fair Imogene."

"And who was your Imogene in Dingle?" inquired Dan in a coaxing tone.

Flood fenced with him, but was obliged to tell, and how many, and what parts he had acted. He was then asked about the suppers, and the geese, turkeys, chickens, and other fowl which were slaughtered, the hen-roosts robbed, until at last Flood lost his temper, and O'Connell gained his point. Between the drink

and bewilderment in which he found himself, he became involved in a web of contradiction, so that it was impossible to credit what he said. He actually lost consciousness of where he was, and crying, "My love, my life, my Belvidere," attempted to embrace O'Connell, and thereby fell off the table, to the amusement of the by-standers and the indignation of the presiding judge. After five minutes' discussion the jury acquitted the prisoner, thus adding another to the triumphs previously gained by O'Connell on the circuit.

At the Clare Assizes in Ennis, two brothers named Hourigan, were indicted for feloniously, unlawfully, and maliciously setting fire to a certain dwelling-house (the dwelling-house was a police barrack), with intent to injure, &c. The police barrack was the property of Darby O'Grady, Esq., and it was stated the barrack had been ignited by means of a jar of pitch, found half consumed near the burnt barrack.

O'Connell was employed for the defence, and by his desire a skillet containing pitch was secretly placed near the witness's chair, and over this O'Connell placed his broad-brimmed hat, so as effectually to conceal it. The principal witness for the prosecution was examined by Mr. Bennett, K.C. He swore "that he discovered the barrack on fire, and knew it was set on fire by pitch, for he got the smell of it."

He was then cross-examined by O'Connell.

"You know the smell of pitch, then," said O'Connell.

"I do, well," replied the witness.

"You seem a man able to smell pitch anywhere?" said O'Connell.

"Anywhere I found it."

"Even here in this court-house, if it was here."

"No doubt I would."

"And do you swear you don't get the smell of pitch here?" asked O'Connell.

"I do solemnly," replied the witness. "If it was here I'd smell it."

Then O'Connell, taking his hat off the skillet of pitch, which was placed beside the witness's chair, cried, "Now you may go down, you perjured rascal. Go down."

This saved his client. The jury discredited the witness.

At Limerick O'Connell had a case to defend which presented slight hopes of his being able to obtain an acquittal. The mode he adopted was one which few would venture upon. His two clients were indicted for robbery, and the case was substantially proved against them. They called a young priest for testimony as to their character for honesty. He thought to make a parade of his learning by the use of big words, and his replies to the usual inquiries were in the most polysyllable terms he could devise. Having stated "their reputation for rectification of habitual propriety was exemplary and commendable," Judge Torrens, who chafed with irritation, as the young priest rolled out each jaw-breaker, at last cut him short with,—

"Come, sir, no more of this, say shortly what you know of these men. Are they honest?"

"As far as my experience of their deportment, I am under that impression."

"You think they are. That comprehends a great deal," said the judge, still displaying temper. Turning to the priest, he said, "That will do; go down, sir!"

O'Connell, assuming an air of great indignation, as the priest shuffled off the table, addressing the prisoners in a tone of deep commiseration, said, "My poor fellows, bigotry is on the bench, and when your excellent young priest has been so ignominiously turned out of court, I am in despair of being able to serve you. Here's your brief and fee." He flung the brief and the notes to the agent for the prisoners, and commenced putting on his cloak, muttering, "My innocent clients, I despair altogether now of your acquittal; you'll be hanged, and never were men hanged more unjustly. The only hope I can look to is, that, if your sentence is not carried into execution before the twelve judges meet, I bring this outrageous case before them."

This had the effect intended. Judge Torrens grew terrified at the notion of having acted harshly towards the priest, and disclaimed any such intention. He invited O'Connell to continue the defence of his clients, and to this, after some pretended reluctance, O'Connell assented. The case went on, and the judge, to show he was no bigot, put the character for honesty given the prisoners by the priest so strongly that the jury, almost instantly, brought in their verdict, Not Guilty.

O'Connell was in very large practice, and few equalled him in the conduct of the criminal cases he defended. He was in his early years usually retained for the prisoners in Limerick by one of the officials in the

gaol, and as in the days of Whiteboys and Captain Rock these constituted a large number, his gains from this source alone must have averaged at least 1000*l.* a year.

The son of Mr. Hoskins, agent for the estates of the Earl of Devon, in the county of Limerick, was murdered by a party of Rockites, who fired at and wounded this young gentleman on the 27th of July, 1821. Several men were arrested for this outrage, as also for the murder of Major Going and Mr. Christopher Sparling, a respectable Palatine farmer, who was shot as he was riding towards the town of Newcastle, from a farm called Rourka, of which he had become tenant, the former tenant having been ejected. Mr. Sparling had previously been attacked in his house at Patrickswell, when, aided by a young man from the city of Limerick, named Samuel Cross, he beat off the Rockites, but had to mourn the loss of his intrepid companion, who was killed in the conflict. For this attack three of the Rockites were made amenable. Two brothers, named Walsh, were tried and executed after the Summer Assizes in 1822, the other escaped to America, where he was accidentally burned.[2]

The murder of Major Going was as follows:—On the 14th of October, 1821, Major Richard Going, Chief Magistrate of Police of the county of Limerick, who by his activity had incurred the hatred of the Rockites, as the insurgents were then called, was shot near Rathkeale. The unfortunate Major slept the previous night at Castletown, the mansion of John

[2] Lenehan's "History of Limerick," p. 450.

Waller, Esq. He had choice of three roads, by any of which he could have reached Rathkeale; but the Rockites had determined to murder him, and for three months were on the watch to effect their fell design. On this day no less than four of the gang were posted on each of the roads, so as to guard against the possibility of his escape. Several men were arrested on suspicion, and one named James Bridgman, not quite twenty years old, was strongly suspected of having shot the major. The Crown failed to collect sufficient evidence, so he was discharged at the Spring Assizes of Limerick in 1823. Luckily for the ends of justice, he had not been tried and acquitted, for shortly after, the missing link in the chain of evidence against him was supplied; and at the Spring Assizes in 1824 he was tried and found guilty. He was hanged in front of the Limerick county gaol, and acknowledged he was guilty. He confessed he also was the person who shot Major Hare and Mr. Bushe. He was, though young, a hardened miscreant.

Those of my readers who are familiar with Gerald Griffin's admirably constructed novel of "The Collegians," or have witnessed Mr. Dion Boucicault's excellent drama, "The Colleen Bawn," know the sad fate of the low-born wife of a dissolute Limerick gentleman, named Scanlan. Now, instead of the pages of the sensational novel, or the spectacle of the theatrical representations, the curtain rises on another scene. We behold the court-house of Limerick thronged with an eager, yet awe-struck crowd. On the bench sits the Honourable Richard Jebb, one of the Judges of the Court of King's Bench. The bar seats are filled

with counsel learned in the law. There is a jury struck to make deliverance, and give a true verdict according to the evidence; and a well-dressed, rather good-looking, gentlemanly man stands at the bar of the dock, charged, that he, John Scanlan, and Michael Sullivan—one Ellen Hanly, otherwise called Ellen Scanlan, feloniously, wilfully, and of their malice prepense, did kill and murder, against the peace of our lord the King, his crown and dignity, and against the statute in such case made and provided.

To this indictment the prisoner pleaded "Not guilty." He was defended by two most able criminal lawyers, Daniel O'Connell and George Bennett; the counsel for the prosecution being Mr. Quin and Mr. Richard Pennefather.

The facts of this atrocious crime were as follows:—The prisoner was of a most respectable family—son of Wm. Scanlan, of Ballycahane, in the county of Limerick, Esq. He had served in the Royal Navy, and had formed a connexion with the young girl Ellen Hanly, who was only sixteen years of age. She was daughter of Michael Hanly, a farmer holding land at Ballyclan, in the said county. It was reported the prisoner had married his victim, and repenting of doing so, resolved to get rid of her.

On the 13th of July, 1819, Scanlan, accompanied by Michael Sullivan, his boatman, was in his boat at Kilrush, in the county of Clare. Ellen Hanly, or Scanlan, the reputed wife of the prisoner, was also with him. Patrick Caze, James Mitchell, and a man named James Mangan, with Ellen Walsh, a native of the village of Glin, being at Kilrush, went also in the boat, for the

purpose of crossing the Shannon, in order to get home to Glin. The weather being tempestuous, and the tide adverse, the boat was unable to cross the estuary, so they put into Carrigafoyle, an island on the coast of the county of Kerry. All the party remained that night in Carrigafoyle, and the principal witness, Ellen Walsh, saw Michael Sullivan force a gold ring off Ellen Hanly's finger.

Next morning Caze, Mitchell, and Mangan left for Glin, Ellen Walsh remaining on the island with the prisoner, Ellen Hanly, and Sullivan. The prisoner requested the witness to remain on the island, assuring her he would return for her when he got rid of Ellen Hanly, but this witness refused. She insisted on being put over the creek intervening between the island and the shore, whence she could walk to Glin.

The four in the boat then went across the creek. While they were together Ellen Hanly showed the witness several articles of wearing apparel, some of which she wore, others were contained in a small round trunk she had on board. She also showed witness a gold ring. After landing, the witness set off for Glin, leaving Scanlan, Sullivan, and Ellen Hanly together in the boat. Early next morning witness saw both John Scanlan and Michael Sullivan at Glin. Ellen Hanly was not with them. They stated "they had left her at Kilkee." The witness noticed the ring which Ellen had shown her on Sullivan's finger. In a few days she saw with Mary Sullivan a silk handkerchief, a grey mantle, and other articles. These were produced at the trial, and she identified them as the articles of

dress she saw in the possession of Ellen Hanly at Carrigafoyle.

These articles were shown to the next witness produced, Mary Sullivan. She swore she got the grey cloak from her brother Michael, who told her he bought it. It was taken out of a round trunk in the possession of John Scanlan. Scanlan gave this witness several articles of female dress. She saw a plain gold ring on her brother's finger, and a figured ring on Scanlan's finger. Scanlan had money. Witness saw four guineas, and a red leather purse. Witness never saw any woman's clothes with either Scanlan or her brother until they came to Glin. Heard that Pat Scanlan's wife had silk stockings and a silk handkerchief. Michael Sullivan told the witness the names of all the party who reached Carrig Island. Some days later she asked Scanlan "where the young woman was?" He said "he left her at Kilrush." In a week later he said "she was at Kilkee with his sister." Witness took a letter from Scanlan to his father at Ballycahane. She saw his sister there, but not the young woman. On her (witness's) return from Ballycahane, she told the prisoner "that his sister was there, but the young woman was not." "Oh, no," he replied, "she's gone off with the captain of a ship."

Grace Scanlan, wife of Pat Scanlan, deposed to Michael Sullivan giving her a yellow silk spenser, a sprigged skirt, a pair of silk stockings, a silk handkerchief, and a pink handkerchief. She saw a trunk with a round lid. She also saw ten guineas in Scanlan's possession, and a five-pound Bank of Ireland note. Saw the rings on the fingers of both Scanlan and Sul-

livan. Witness asked Scanlan if he should ever see his lady again. He replied "she was at Kilkee with his sister." Witness expressed her surprise that Scanlan "allowed Sullivan to make so free with her clothes." He then said "the young woman had misbehaved with a captain of a ship." Once or twice she heard Sullivan ask the prisoner for money. On being refused, Sullivan said "I have as much right to it as you have."

From the 13th of July to the middle of September, no trace of Ellen Hanly, *alias* Scanlan, could be discovered. Whether she had, in truth, gone off with a captain of a ship, or was dead and buried, was not known: but three men from Moneypoint, a small village near Kilrush, engaged in preparing their fishing gear on the estuary of the Shannon, at Carndalla, in the parish of Killena, in the county of Clare, observed a small heap covered with sea-weed and slime. This, on examination, proved to be the fast-decaying remains of a female, little past the age of girlhood. There was nothing on the person but a small bodice. Her features were barely recognizable; but remarkable teeth in the upper jaw, on either side of the small mouth, yet held out some hope of identification. That the poor young creature came by her end by murder most foul was evident, for the instrument of strangulation was there; a rope still kept its fatal place tight round that fair and slender neck. At the loose end was a loop as for a stone. The sad discovery was quickly reported to the Knight of Glin, and, together with two other magistrates, the Rev. George Warburton and Thos. Odell, Esq., they held an inquest on the 10th September,

1819, upon the remains. Ellen Walsh, already mentioned, attended the inquest. She felt no difficulty in identifying the body as that of Ellen Hanly; and the jury, having heard all the evidence then attainable, returned the following verdict:—

"We find, on view of the body buried on the shore at Carndalla, that the woman exposed to our view was murdered.

"We find that such murder was committed on the river Shannon.

"We find that such murder was effected by strangling the body with the rope found about her neck.

"We find that such murder was committed by John Scanlan or Michael Sullivan, or by both."

The finding of the body created the most intense sensation throughout the country. Scanlan was arrested at a friend's house, where he was on a visit, little suspecting the shore of the Shannon had already given up its dead. On the warrant of the Mayor of Limerick (for the Shannon is within the jurisdiction of the city), he was committed to the city gaol. The young victim of this foul deed had resided for some time in the city, having been adopted by an uncle, named John Connery, a ropemaker. While with him she contracted her unhappy marriage, having made acquaintance with Scanlan at Garryowen.

The case for the prosecution was too clear, and public sympathy too strong, for much chance of any disagreement of the jury, much less an acquittal. Both O'Connell and his able and respected colleague, Mr. Bennett, did all they could in cross-examining the witnesses to elicit discrepancies and contradictions in

their statements, so as to raise a doubt as to their credit; but it was impossible to beat down the facts.

The jury, without hesitation, found the prisoner guilty, and he was sentenced to be hanged in forty-eight hours. He did not anticipate that his sentence would be carried into effect. His family were highly connected, and immediately on his conviction a relation started on horseback to procure signatures to a memorial for the judge, to obtain a respite of his sentence. The memorial was not only signed by a large number of most influential gentlemen, but many of them went to present it to Judge Jebb. It produced no effect. His lordship informed the deputation "he had pronounced a like sentence upon an illiterate, humble man, whose offence was much inferior in enormity to that of Scanlan; and how could he execute the one and respite the greater criminal? The law must take its course."

It is said Scanlan was permitted the use of his family coach to convey him to Gallows Green, but the horses refused to stir. Neither blows nor entreaties could persuade them to draw him to the place of execution. Some tenant of the prisoner's family arriving in Limerick with loads of hay, allowed two of his horses to be harnessed, and lo! on crossing Balls Bridge, they both lay down, and no whip or efforts would make them move, so the unhappy youth (he was only twenty-three years of age) had to walk in his mournful procession to the gibbet. He professed the Protestant faith, and was attended to the gallows by the Rev. Henry Gubbins. As all through he protested his innocence, the clergyman, at the last moment,

bade him "make his peace with God, and tell the truth." He replied, "I suffer for a crime in which I did not participate. If Sullivan be found, my innocence will appear." He was immediately after launched into eternity.

Sullivan was arrested, and tried at the Limerick Assizes in 1820, before the Right Hon. Charles Kendal Bushe, when the same evidence was called, with a like result. He was convicted, confessed his guilt, and was executed.

CHAPTER XXI.

Tragical fate of the Franks Family.

For nearly the entire first quarter of the present century, bands of lawless men, named Whiteboys or Rockites, disturbed the peace of the Munster Circuit. They went in gangs, usually with veiled or blackened faces, wearing white shirts or women's petticoats over their clothes, whence they were called *white* boys. They visited the houses of farmers who had taken land from which the former tenant was evicted, and either murdered or ill-treated the new tenant and his family. Sometimes their atrocity induced them to burn the house and all that were within. Sometimes they contented themselves with putting the farmer to his oath not to hold the land, or merely took any fire-arms that happened to be in the house. During the greater part of this disturbed time, my father discharged the duty of accommodating the troops detached from the head-quarters garrison of Fermoy, in the county of Cork, where he was barrack-master, and at one period no less than twenty-two of these out-stations had to be visited by him once a month. He was of active habits, and usually rode unattended, often traversing the country at night when returning from distant stations. Though he often encountered parties of Whiteboys, he was so

popular he never was molested. That he was well known as an officer on duty was evident. "Good luck to ye! captain, you're on your duty," was the usual salutation.

In the month of September, 1823, a report was made to him of a frightful murder in his district, and, accompanied by General Sir Thomas Arbuthnot, K.C.B., commanding the Fermoy garrison, and the late Mr. James Plunkett, afterwards Q.C., then on a visit to my father, he started for the scene of the outrage.

The road from Fermoy to Kildorery runs near the river Funcheon, and a small road, or bohereen, leads to a place called Lisnagourneen, between Rockmills and Kildorery. Not far from Lisnagourneen stood a house of more elaborate architecture than the farm-houses in the country. It was not quite completed at this time. It was occupied, however, by a family of the name of Franks, consisting of father, mother, and only child—a son grown to manhood—and their servant girl. They were respectably connected, the head of the family residing at the ancestral seat, Carrig, near Mallow. Mr. Franks, the occupant of the house near Lisnagourneen, was employed in farming, and also acted as agent over part of the vast estates of the Earl of Kingston.

His only son—a well-looking, well-conducted youth—also attended to the farm, and was deemed a good match in the country. He found favour in the affection of a Miss Kearney, reputed an heiress. Her property was a large farm, held by her late father, who had died a few years before 1823. Her step-sister by his first wife

was married to Mr. Keeffe, who managed the farm, and looked with jealousy upon any suitor to this Miss Kearney, who, if she was married, might deprive him of the rights and emoluments he then enjoyed. As Miss Kearney plainly saw the object of Mr. Keeffe was to oppose her marriage, and that her only chance of getting her property into her own control or enjoyment was to get a husband, she was disposed to favour the suit of young Mr. Franks; and, as she did not wish to deprive her step-sister of the house in which she lived with Mr. Keeffe, it was arranged that during the life of her sister young Mrs. Franks would reside with her husband's parents. In order to provide a suitable dwelling for his wealthy bride, young Mr. Franks employed a contractor to build the house near Lisnagourneen. The old couple, who liked their future daughter, eagerly watched the progress of the building. They looked forward to happy days passed in the society of their beloved children, and, as the work drew near completion, thought to hasten the workmen by partially occupying the house.

The parlour was not deemed sufficiently dry for dwelling in with safety, so the family had their meals in the kitchen and slept in the bedroom upstairs. They were homely in their habits and of domestic tastes. They sat at their humble dinner on that September evening, and, when the shades of coming night darkened the room, a candle was lighted; and we may well imagine they were happy together. This tranquillity was rudely broken. Two men of threatening appearance entered the kitchen. One bore a formidable horseman's pistol; the other had the dreaded symbol of Whiteboys—a

shirt over his clothes. The servant-girl, Mary Myers, crouched under a table near the wall, where the light did not penetrate, and there, herself unseen, beheld and heard all that occurred. The men roughly demanded "the firearms in the house."

"I declare to God!" replied Mr. Franks, "there are no arms of any sort in the house."

"No! indeed," said his son, "they are all at Mr. Smyth's, at Castle Widenham, but we can send for them, and you shall have them."

Several stout-looking men now blocked up the little hall, evidently of the same gang, for one, dressed in a green coat, with white trousers, who seemed the commanding officer, hearing what young Mr. Franks said, instantly exclaimed, "'Tis not for arms you want to send, but for the soldiers. Come in, boys, and do your duty." At this order nine or ten more rushed into the kitchen. They were armed, and, as they raised their guns, poor Mrs. Franks cast herself before her son so as to shield him from the contents of these weapons. One of the ruffians seized her, threw a white apron round her head, and strangled her. Father and son were instantly shot dead, and then, happily for her, not seeing the terrified servant, the murderers departed.

What a sight was presented to my father and his companions when they entered that cottage next day! The three bodies of father, mother, and son lay as they fell. The little room was soon filled by magistrates, police, and the peasantry, all horror-stricken at the fearful crime. Of course it was a Whiteboy offence, and many reasons were assigned for the perpetration. The Rev. Dr. Woodward, rector of the parish of Glan-

worth, ascribed it to Mr. Franks having had to deal harshly with several of the defaulting tenants on the Kingston estates. Others thought Mr. Keeffe, who, it will be remembered, was married to the half-sister of Miss Kearney, might have employed the murderers to remove the young suitor out of the way. The police were soon at work, and, at the Spring Assizes for the county of Cork, held on the 9th of April, 1824, three men, brothers, named Patrick, Maurice, and John Cronin, were indicted before Mr. Justice Torrens for these barbarous murders.

The chief evidence against the prisoners was that unreliable one—an approver. His name was Edward Magner. He swore that the prisoners were the men who asked him to join in the murder of the Franks family. That he consented to go with the party, and they all went to the new house. He disguised himself by wearing a woman's cap and a gown. Patrick Cronin, one of the prisoners, had on a shawl and an apron. The Cronins had for arms bayonets on sticks. He carried a pistol. When he entered the kitchen, the father, mother, and son were sitting round a table. A lighted candle and a jug were upon it. They asked for fire-arms. Mr. Franks said "they had none in the house, that they had sent them to Mr. Smyth's, but he would send for them." They tied a shawl round Mrs. Franks's face, to hinder her from shouting while they were shooting the rest. Patrick Cronin flung the jug at Mr. Franks's face, and then witness fired his pistol at him. It was loaded with slugs. Patrick Cronin struck Mr. Franks with the poker, when he fell. Young Mr. Franks took up a chair to try and

defend himself, but a blow broke his arm. He was then beaten till he died. Mrs. Franks was strangled. The three prisoners took an active share in the killing. This evidence was, in the main, fully corroborated by Mary Myers, the servant.

Dr. Piddel, of Kildorery, proved he examined the three bodies. Mr. Franks, senior, had been shot in the breast; his skull also was fractured. Mr. Franks, junior, had his arm broken, and his head showed some wounds. Mrs. Franks died from suffocation.

The jury found the three prisoners guilty of wilful murder, and they were executed. They in the most solemn manner protested their innocence of the crime.

Suspicion still clung to Mr. Keeffe, and he, together with a man named Thomas Bourke, were tried at the Autumn Assizes for the county of Cork, on the 18th August, 1825, charged before Baron Pennefather with the triple murder. In stating the case for the prosecution, Mr. Serjeant Goold alluded to the fact of Mr. Keeffe's connexion with the Kearney family, and his being opposed to the match between Miss Kearney and the deceased young Mr. Franks. The character of the Franks was that of being severe landlords, and the learned serjeant described the outrage as I have already related it.

Timothy Murphy, another approver, gave evidence in this case. He was examined by Mr. Quin. He identified the prisoner, Thomas Bourke, as one of the gang who committed the murder, but did not recognize Keeffe. O'Connell defended the prisoners, and obliged Murphy, the approver, to admit his participation in so

many deeds of guilt that Baron Pennefather said "it was unnecessary to cross-examine him further."

A witness named Glover identified Keeffe as having been present at the murder. He, however, was not deemed a trustworthy witness. He admitted, on cross-examination by O'Connell, "that he was employed in Mr. Franks' service, that for several days before the murder he knew of the intended crime, yet he gave no hint or warning to his master."

Mary Myers, the servant-maid, also identified Keeffe as one of the persons who were present on that fatal night when she lay under the table. On cross-examination by O'Connell, she broke down by admitting "that on two occasions she swore she did *not* see Keeffe that night."

Edward Magner, a witness in the former trial, was also examined, but his connexion with the Whiteboys rendered him worthless as a Crown witness.

O'Connell called respectable gentlemen as to character for his clients. They all concurred in their belief that Mr. Keeffe and Thomas Bourke were both men of excellent character, and not likely to have aided in the perpetration of this atrocious deed. The jury found them not guilty.

For years the fate of the Franks formed a subject of conversation in the rural district, and I trust never again shall this peaceful neighbourhood be sullied by so terrible a crime.

CHAPTER XXII.

The Doneraile Conspiracy.—Impressive Statement of the Solicitor-General.—John Doherty.—Conviction of the Four Men first tried at the Special Commission in 1829.

THE DONERAILE CONSPIRACY, so alarming in its first proportions, so despicable in its last results, forms a prominent narrative in our legal history. Doneraile is a well-built and thriving country town in the northern part of the county of Cork, a few miles from Mallow, but a short distance from the garrison town of Buttevant. Close to the town is the stately mansion of the St. Legers, Viscounts Doneraile; and the country seats of the county families of Morrough, Creagh, Norcott, Hill, Stawell, Evans, and others lie scattered around. These seats, at this period of our history, were occupied by a dashing, fox-hunting, steeplechase-riding race, the *élite* of the Duhallow Hunt, and all belonging to the Protestant Church. They always voted for the candidate for the representation of Cork county who would oppose Catholic emancipation, and, as that was the question of the day, were undoubtedly looked upon with dislike by the lower orders of the peasantry. The propensity of the people for the possession of fire-arms induced gangs of Rockites to plunder any house in which weapons were kept, and their having them was

but the prelude to using them. The details which I have lately given of the murder of Major Going, Mr. Hoskins, and others in Limerick, and the Franks family in Cork, show how savagely these lawless men carried out their fell designs when they resolved to slay the object of their hate; and one of the local gentry in the neighbourhood of Doneraile, Mr. George Bond Low, a magistrate and Baronial High Constable, was a marked man for popular aim. He had been several times fired at, and on each occasion showed a brave and intrepid spirit. On returning one day from a country fair two Rockites, concealed by a ditch, fired at him as he rode past. They missed Mr. Low, but wounded his horse. He quickly threw himself off the poor animal, and, climbing the bank, saw his assailants running away. He fired a pistol at the nearest, but the ball fell short, so Mr. Low gave chase. When he got close to them they halted, turned, and fired at their pursuer. They again missed, and he rushed on them, and when within range fired and shot one of the assassins. He then closed with the other, who grappled with him, but Mr. Low was a large, powerful man, and he succeeded in making the Rockite prisoner.

At the Cork Summer Assizes, 1829, this man was indicted before Chief Baron O'Grady for firing at Mr. Low with intent to murder him. He was found guilty and executed.

Mr. Low's courage and daring in bringing the miscreant to justice made him very unpopular, and in song and story he was mentioned with animosity. A ballad with the refrain—

> "Three cheers for the man who gave the blow;
> That broke the pate of George Bond Low"—

was popular, and a man named Patrick Daly, commonly called "the spy," laid the following information before Colonel Hill, an active county magistrate of Doneraile:—

"Deponent sayeth—that some time ago this deponent was at the house of Denis Duame, publican, of Doneraile, in company with Daniel Keeffe, of Ballynere, and Darby Morrison, of Wallstown, and at an adjoining table were sitting Richard Griffin, of Wallstown, and John Magner, son-in-law to William Flinn, of Doneraile, William Flinn, junior, and a fourth man unknown to informant. That in conversation Daniel Keeffe asked John Magner to lend him a gun. The latter asked 'for what purpose, and if for fowling.' Keeffe replied, 'Suppose so.' Magner answered, 'A bad fowler you are.' Keeffe observed, 'Better than you, for the last Bird you fired at *you missed.*' Darby Morrison then asked, 'What Bird do you mean?' Magner then acknowledged, 'that George Bond Low was the man. I do not deny that I fired at him and missed him; but, by the virtue of my oath, I have another charge ready for him, and the first opportunity I will be at him. If I cannot get the opportunity, others will, as there is not a man of ours at Wallstown and Droomdur who will not be ready to shoot him. You ought all to join in it, and, Daniel Keeffe, you may get the gun from John Keeffe which we took from Mr. Fennell.' Some more conversation passed, and the party separated.

"Informant saith that on Thursday, March 5th inst., he went to the house of Thomas Desmond, near Miltown, farmer, whom informant knew to be a captain of

Whiteboys, and remained there till Saturday, 7th March; that informant has been in the confidence of Desmond for some time past, and has seen him round with Whiteboys; that Desmond acknowledged to informant that there were many pikes lately made by Patrick Regan, of Newtown, and John Hare, of Corline, blacksmiths; that they were given to himself, Cornelius Brusnahan, of Ardglas, farmer, and Daniel Corkery, near Shardrum, farmer; that they paid the smith for making them; that if they wanted one thousand pounds they would get it from Mr. Murphy, priest of Newtown, and that it was some of the Catholic rent which was kept by the priest for that purpose, and by whose orders Desmond acknowledged the pikes were made. Thomas Desmond further informed deponent that the pikes were distributed by him, Brusnahan, and Corkery to such of their friends as could be depended on. Informant saith that the priests, since Counsellor O'Connell's business, directed the people to provide arms and pikes, and to be ready when called upon. Informant further saith that he met William Nolan yesterday, 10th March, on the farm of Cornelius Garvin, at Knockanard; that he acknowledged to informant that he, with Edward Vowell, of Rathclare, and Edward McGrath, of Sag, were the persons who took Mr. Coote's double-barrel gun from the barn at Knockanard on Friday night; that Thomas Howell, labourer to Mr. Coote, gave information that Mr. Coote left the gun in the barn, and that Nolan, McGrath, and Vowell the same night broke open the barn door and took the gun, which Nolan acknowledged to informant that he had in his care."

This information is a sample of the lawless state of the country as *reported by Daly* and his companions. Soon, however, it was sworn that a number of men had conspired to assassinate Admiral Evans, Mr. George Bond Low, and Michael Creagh, Esquire, and when Dr. Norcott, of Doneraile, with his daughter, were returning one night from a party at Old Town, the residence of Admiral Evans, between the hours of ten and eleven o'clock, on a road near Ballivonere bridge, two persons fired at the carriage, wounding the coachman and footman on the box, and sending several balls through the carriage. There was, shortly after, a meeting of magistrates held in Doneraile, the High Sheriff, Michael Creagh, Esq., in the chair, and subscriptions were entered into, and a large reward—which, with 200*l.* from the Lords Justices, amounted to 732*l.*—was offered for the discovery of the perpetrators of this outrage. The informations of Patrick Daly soon caused the arrest of several persons, who were committed for trial; but it would appear that Chief Baron O'Grady, in his charge to the Grand Jury of the county of Cork, at the Summer Assizes of 1829, did not entertain as firm a belief in the guilt of the parties accused as the Doneraile gentry did. He said that "he perceived that seventeen persons were charged with having participated in this conspiracy. If bills in the case should go before the Grand Jury, and he was not certain that they would, he besought that they should not be found without their having received the weightiest consideration." The bills were sent before the Grand Jury and quickly found, and the prisoners were desirous of being tried; but, upon calling over the

jury panel of 160 persons, only thirty-one answered to their names. The Crown Counsel asked for a delay, to enable the sheriff to procure the attendance of jurors; but the Chief Baron did not wish to prolong the assizes, so he would only agree to postpone the cases to the following assizes. This, however, did not suit the anxiety of the Doneraile gentry, and, aware of the lawless state of the country, we can hardly be surprised if they applied to the Irish Government for a special commission to try the conspirators and secure the public peace. The application was successful. Baron Pennefather and Judge Torrens were nominated the judges for trying the prisoners, and Mr. Doherty, Solicitor-General, was directed by the Government to conduct the prosecution. Mr. Doherty was a strikingly handsome man, as some one said, "Over six feet high and every inch a gentleman." He had an excellent voice—clear, distinct, and melodious. He possessed considerable talent for speaking, and had much experience as a member of the Leinster Circuit. He had been called to the Bar in 1808, and was considered to resemble his kinsman, the Right Hon. George Canning. He was member of Parliament for Kilkenny, and, on the elevation of Lord Plunket to the Bench in 1827 as Chief Justice of the Common Pleas, Mr. Joy became Attorney-General, and Mr. Doherty Solicitor-General. Associated with Mr. Doherty in the conspiracy cases were the usual Crown prosecutors in the Munster Circuit, Serjeant Goold and Mr. Bennet, K.C.; to these was added Mr. R. W. Greene, K.C.

On the 21st of October, 1829, the county court-house of Cork was densely thronged. In the body of the

court, and along the galleries, in the Grand Jury box, and in all the avenues, county gentlemen clustered thick as bees in a hive, but the lower orders were conspicuous by their absence; not a frieze coat was visible. The commission being opened, Baron Pennefather charged the Grand Jury; additional bills were sent up. The prisoners were twenty-one in number, and when their agent, Mr. FitzGerald, stated they were without counsel, the Solicitor-General at once said, "If the attorney for the prisoners would name any two gentlemen of the Bar, the Crown would take care they were remunerated." Messrs. Francis McCarthy and David R. Pigot, barristers, were then assigned for the defence. Of these gentlemen Mr. McCarthy was many years the senior. He possessed considerable talents, was clear and logical in his statements, and had a good deal of experience as a practitioner on the Munster Circuit. He was an excellent speaker, and always put his client's case in the most favourable light. His tastes were literary and convivial, like those of his friend and boon companion, Dr. Maginn. Mr. McCarthy was much respected by his brethren on circuit.

Mr. Pigot was born near Kilworth, in the county of Cork, and in his early life studied medicine. His father, Dr. Pigot, was a respectable member of that profession. Changing from physic to law, he, David R. Pigot, became a pupil of the eminent pleader, Mr. Tidd, who soon discovered the aptitude of his Irish law student. Mr. Pigot intended to remain in London, and get called to and practise at the English Bar; but a friend, the late James Plunket, Q.C., aware how few of his contemporaries in Ireland equalled him in the knowledge

of law, especially in the science of special pleading, induced him to forego this intention and to practise at the Bar of his native land. Few law students took such great pains to acquire, not only a profound knowledge of his future profession, but the most attractive mode of addressing judges and juries as Mr. Pigot did.

At his residence, the Park, near Kilworth, he had in his study a cheval-glass, before which he practised attitudes, and his phraseology was remarkable for flowery and choice expressions. Though no better man could be selected for a law argument to the Court, or to address a jury in a nisi prius case, he was totally unfit for the defence of the Doneraile conspirators. He had little experience on circuit, being but three years called to the Bar. He had less in criminal cases, and therefore was utterly unable to tackle the hardened miscreants who came recklessly on the table, ready to swear away the lives of those who were objects of their hostility, eager only to clutch the rewards offered for their condemnation.

A jury—highly respectable men, no doubt, but exclusively Protestant—was impanneled, and four men, Leary, Shine, Roche, and Magrath were given in charge. Leary was about seventy years old. He was tenant to Mr. Creagh, father of the High Sheriff, whom it was sworn he was resolved to murder. He had been paying 220*l.* a year rent for over twenty years, and was greatly esteemed by his landlord. Shine was brother to a tenant of Captain Creagh, on whose land he lived. Magrath was brother to the man hanged at the previous Cork Assizes for the attack on Mr. Low, and Roche was a farm labourer, with somewhat doubtful

character. The impression in court was, that it was not fair to put such a respectable man as Leary on trial with those whose character did not stand so high as his.

The Solicitor-General stated the case. He said, "The prisoners at the bar stand indicted under an Act of the Irish Parliament passed in the year 1796, and Leary for an offence committed under an Act passed in the year 1798, for proposing, soliciting, inciting, persuading, and instigating to the commission of murder, both which Acts made capital the offences under which the prisoners at the bar stood charged. These Acts, severe in their nature, arose out of the disastrous state in which society was placed in this country; and I regret to state that my own personal observation obliges me to bear testimony to the salutary effects which these laws—so severe in their operation, but called for by the peculiar habits of the people—produce, and instances of whose utility the records of this very Court can produce. Gentlemen, if you had the good fortune to be present yesterday when his Lordship addressed the Grand Jury, I should not find it necessary to dwell on the circumstances in which we are placed. It was done in a more able and eloquent manner than I can imitate. When I inform you that, at the last assizes held in this city, true bills were found by the Grand Jury against twenty-one individuals, charged with a conspiracy to murder a number of gentlemen of this county, and when, by fatal and untoward circumstances, no trial took place, you will feel, notwithstanding the inconvenience it may be to many of you to be summoned from your homes at this season, that

and to all those who are disturbed in the quiet possession of their homes, their properties, and their lives. I now address myself particularly to the people—not in the mischievous sense in which that term 'people' is too frequently used—and to tell them that even the low populace are as interested, if not more so, than any other class of the community in putting down this spirit of murderous communion of which they themselves are the most miserable victims, subjecting them, as it does, to the loss of all that is dear and respectable, rendering them outlaws and fugitives, nightly marauders, bound by the blasphemous sanction of an oath to do the will of some cautious and cowardly leader, who plans the crime but shrinks from the responsibility." He then went into very minute details of the conduct of each prisoner, their offences, and the way in which he expected to prove their guilt. He stated the law of conspiracy, and the way he proposed to corroborate the evidence of accomplices, so as to enable the jury to rely upon their statements, and thus concluded: "My Lords,—I have to apologize for the time I have taken in explaining the nature of the evidence I have to produce. You will point out to the jury what is particularly worthy of their attention. If I have brought forward accomplices, their testimony coincides, as corroborated by circumstances, and supported by other more credible witnesses, and the jury will give to the circumstances that consideration which they may deny to the persons. I would call your attention to the case against Leary, who, removed from the temptation of poverty, remains loof in comparative security, sending out his less

guilty emissaries to execute his bloody edicts. If the jury believe these facts, his is not a case that will excite the greatest sympathy. It is not likely he will, in his hour of need, be altogether deserted. It is likely he will find many to speak for him as to character; but, if the facts against him be proved, what will character avail? God forbid that I should strive to rob reputation of the importance which may attach to it in the hour of need, or deny its legitimate influence; but it is little adapted to negative the offence laid to the charge of the prisoner. Of what avail is it that he be industrious in his pursuits, be faithful to his contracts, and sober in his habits, if foul conspiracy and midnight murder can be laid to his charge and traced to his suggestions? There is a reign of terror that coerces character. I do not anticipate that any such will display itself here—that the high-minded gentry, the impartial magistracy, or independent yeomanry of this county will stoop to such a mode of conciliating a disgraceful and paltry popularity. I shall now conclude, observing that it rests with you to show (if these charges be established) whether you will succumb to the iron despotism which midnight marauders would usurp, or assert the legitimate sway of law and justice in this land."

These very forcible passages suffice to give my readers a notion of this harangue, which lasted four hours, and was so unlike the cool, unimpassioned, matter-of-fact statements for the Crown we are accustomed to in our day, that several persons declared "they would convict the batch of prisoners upon the bare statement of the Solicitor-General."

The witnesses for the prosecution were David Sheehan, Patrick Nowlan, Patrick Daly, Thomas Murphy, and Owen Daly. These men were all either accomplices or spies, and they swore "that Leary was the captain, the leading conspirator; that in a tent, at the fair of Rathclare, he produced a paper, or agreement, for signature by all who consented to murder Admiral Evans, Mr. Low, and Mr. Creagh. Several signed the paper, and consented to shoot the three." In confirmation of this, several warnings were given in evidence. Mr. Low's steward was warned not to go with his master to the fair of Kildorery. He, the steward, informed his master of this, and urged him not to attend the fair. Mr. Low did so in spite of the warning, and was fired at, but escaped unhurt. Notice that Mr. Creagh's carriage would be attacked was given, and the firing at Mr. Norcott's in mistake for Mr. Creagh's, which it closely resembled, was sworn to. These details were clearly proved, and though Messrs. McCarthy and Pigot raised several points upon the admissibility of evidence, which they argued with consummate ability, and cross-examined the approvers with much skill, they failed to make any decided impression. In addition to those witnesses already named, Mr. Garvan, Mr. Low, Mr. Roberts, Mr. Glover, and some policemen—all proving the neighbourhood of Doneraile to be in a very disturbed state—were next called. Then the case for the Crown closed, and witnesses were called for the defence. They were chiefly gentlemen of respectability residing in the neighbourhood of Doneraile: Harold Barry, Esq., of Ballyvonere; Lieutenant Coote; Rev. Dr.

O'Brien, parish priest of Doneraile and Vicar-General of the Diocese of Cloyne; Garrett Nagle, Esq., of Ballynámona Castle; Arthur Creagh, Esq., Leary's landlord; Charles Daly, brother of Patrick. The evidence of these witnesses went mainly to discredit the witnesses for the prosecution. Harold Barry, a resident landlord, who had great knowledge of the country, swore he did not consider David Sheehan or Patrick Daly entitled to credit on their oaths. Mr. Barry, a gentleman of considerable property, and of high position in the county, was severely cross-examined by the Solicitor-General. It appeared that, having a natural reluctance to enact the part of a detective policeman in entrapping a Whiteboy, he was asked questions which made it appear he himself was suspected of being one of that body. Other gentlemen swore the principal witnesses for the prosecution were such miscreants, they were wholly unworthy of credit, and Patrick Daly's brother swore "that Patrick asked him to join in plotting to convict the prisoners."

But the evidence of old Mr. Creagh in favour of old Leary was of the most important nature. He gave the prisoner an excellent character for integrity and peaceable habits. He declared his entire disbelief "that Leary had hand, act, or part in conspiring to murder his son."

The case having closed on both sides, Baron Pennefather proceeded to address the jury. The prisoners evidently felt the importance of the judge's address. Leary looked composed as he stood, with folded arms and erect head, firm, yet listening attentively. The learned Baron's charge was minute and rather tedious.

It was considered to incline against the prisoners. The old man said "John Leary's witnesses were not examined," and it was plain the prisoners were not satisfied with their counsel, for Shine exclaimed, "Our counsellors have been bribed!"

The jury, after deliberation for five minutes, brought in their verdict. They found all the prisoners GUILTY.

Judge Torrens put on the black cap, dread symbol of death. He sentenced the four to be hanged, and spoke of the justice of their sentence. "Oh, my lord!" cried one of the convicts, "there is no justice for us! we know nothing but vengeance!"

CHAPTER XXIII.

Doneraile conspiracy continued.—O'Connell defends the remaining prisoners.—His encounter with the Solicitor-General.—End of the special commission.

It would be difficult to magnify the terror which seized the relatives of the men yet untried, when the fate of the first batch of the prisoners was thus sealed. They were aware of the infamous character of the spies and informers, and knew that no scruples of conscience would restrain these hardened caitiffs from what they called "swearing up to the mark"—so as to obtain convictions for the Crown. There was only one resource for the relatives—only one barrier between the remaining prisoners and the halter; this was the skill and legal acumen of the greatest criminal lawyer on the Munster Circuit, Daniel O'Connell. Fortunately he was at Derrynane, his country seat in the county of Kerry; but that was ninety miles away, and there he was advertised to attend a meeting of the people of Kerry, in Tralee, respecting the Sub-letting Acts, on Tuesday. But his advocacy was the only one chance for the untried men, and on the Saturday the judges did not go into court until a late hour. The Solicitor-General, considering that the trial of the next batch of prisonrs would encroach on the Sunday, proposed to adjourn over until Monday

morning. Mr. M'Carthy endeavoured to ascertain the names of the prisoners who would be tried next, but this the Solicitor-General could not—or would not—disclose. The Crown, he said, had determined to try every one of the prisoners, and as the same evidence which already procured the conviction of the four was applicable to all, the fears of the prisoners and their friends were naturally at the greatest height.

Under these circumstances a young farmer named Burke, a brother of one of the prisoners, resolved to ride to Derrynane, and request O'Connell to come off, at once, to Cork, so as to act for the defence on the ensuing Monday. He undertook to be at Derrynane early on the next morning, and at five o'clock on that Saturday afternoon, mounted on a strong horse of powerful action and singular endurance, he started on his errand for life or death. On he sped, heedless of the coming night, the lonely road, the bleak winds, the pelting rain.

A bright, genial sun shone over the wild, rock-bound coast scenery of Derrynane, as O'Connell looked forth from his mountain home by the billowy sea on that October Sunday morning. He looked over the splintered peaks of his beloved Kerry mountains, and, after returning, heard the morning mass in his private chapel in the house. He was sitting at breakfast, when he was told "a man, who appeared to have come a long way, desired to see him." O'Connell saw from his window that the man had arrived on horseback; and the steaming flanks—the drooping head, and chest flecked with foam, confirmed the servant's notion, that the man had indeed come a long journey.

The rider was at once admitted into the library. Addressing O'Connell, he said, "I left Cork last evening at five o'clock, and I rode ninety miles to see you, Counsellor. The friends of the prisoners yet untried for the Doneraile conspiracy sent me for you. If you don't undertake their defence, Doherty will hang them all. There's a hundred guineas for you, and if you come they'll be safe; if not, they'll all be hanged."

O'Connell was not proof against this compliment, which expressed such confidence in his professional skill. Though half a century had sped since he was born, he was hale and vigorous. He accepted the retainer, and promised to start at once for Cork. Burke then expressed his wish to go with the good news, but O'Connell implored him, in compassion to his good horse, if not for himself, to take food and rest. In case that Burke might reach Cork before himself, O'Connell wrote a short note to the prisoners' attorney, informing him, "he would attend to defend the remaining prisoners, as fast as horse could draw him;" and then, after a few hours' rest, elated at his success, William Burke commenced his return journey. Eager looks were cast on the road to Kerry, from an early hour on that Monday morning. When Burke was descried the question, "What news, William?" came from many a tongue. The response, "O'Connell will be here in an hour," elicited a shout that rang through the morning air. It was taken up in Blackpool, and reverberated through George's Street, and echoed from Patrick Street, the Grand Parade, and the South Mall. The joyous news pierced the barred dungeons, and awoke hope in the oppressed hearts of the prisoners awaiting their trial.

The fathers, sons, and brothers—wives, mothers, and sisters, fell on their knees and thanked God that their dear ones would yet again breathe the free air of their native fields.

Faithful to his promise, O'Connell was quickly on the road for Cork. He selected a gig as the lightest mode of conveyance, and drove through the glorious scenery of the picturesque region which never impressed him more than on that night journey by Killarney and the banks of the river Lee. O'Connell described the contrast between the solemn scenes through which he passed that night, and the stern realities of the following day in these words, "At ten o'clock that morning, after that glorious feast of soul, alas! I found myself settled down among all the rascalities of an Irish court of justice."

Shortly after nine o'clock on that Monday morning, 26th October, 1829, the judges, Baron Pennefather and Judge Torrens, took their seats on the bench. There was considerable despondency among men of all classes, from the news that a Protestant clergyman, named Going, was inhumanly murdered on the previous day, near Templemore, in Tipperary. It was thought this savage murder would influence the minds of the jurors, who ought to judge coolly, and to hear impartially. When the judges took their seats, four men, Edward Conners —a well-dressed, respectable-looking farmer, of large stature and herculean build—Barret, Wallis, and Lynch, all decent-looking men, were placed at the bar of the dock. Conners looked around him with an unembarrassed air, while his companions seemed not quite so much at their ease. The attorney for the prisoners, addressing the judges, said, "My lords, an express

messenger has just brought me a letter from Mr. O'Connell, informing me he will be in Cork this morning, being retained for the prisoners. I pray your lordships to postpone the trial of these men for a short time, as I am sure he will be here presently."

After a brief consultation, Baron Pennefather said, "We cannot delay proceeding with the trial, as there is really so much to be done." While the jury was being sworn, Mr. M'Carthy, the counsel for the prisoners, endeavoured, as much as possible, to create delay, being anxious that the prisoners might have the benefit of O'Connell's advocacy. The judges saw through his motives, and Judge Torrens, with an epigrammatic air, observed, "that it was the business of the Court to prevent delay and defeat artifice." A very respectable jury was at length impannelled, and the Solicitor-General commenced his address to the jury, when, amid loud and continued cheers, which *vires aquirit eundo*, actually seemed to drown the sonorous tones of the Solicitor-General, the tall form of O'Connell, dust-stained and travel-soiled, strode into the bar seats of the Cork court-house. He bowed courteously to the judges, and his salute was returned most kindly by his old circuit companion, Baron Pennefather. He apologized for his unprofessional appearance, which of course, was excused, and to his request, "to be allowed some breakfast in Court," their Lordships said, "Most certainly." A large bowl of milk and some sandwiches, plentifully cut, formed his morning meal; while he partook of the food which his toilsome journey rendered so necessary, he listened, with close attention, to the statement of the principal Crown prosecutor. On hearing a legal pro-

position incorrectly stated by the Solicitor-General, O'Connell instantly exclaimed (his mouth half full of bread and milk), "That's not law!" The Solicitor-General insisted it was, and the Court was appealed to. The decision was in O'Connell's favour. Somewhat crestfallen, the Solicitor-General resumed, to be again pulled up, for, referring to an Act of Parliament which O'Connell knew was passed for only a limited time, he exclaimed, "That Act has expired." This was blow the second, and then the Solicitor-General adverted to the evidence of Mr. Harold Barry on the former trial, asserting that he had taken the Whiteboy oath, and was made aware of the intended attack on Mr. George Bond Low. His repeated allusions to Mr. Barry, a well-known country gentleman, residing in the neighbourhood of Doneraile, brought up O'Connell again, who remarked "upon the hardship imposed upon him by the then state of the law, prohibiting him from a speech to the jury,[1] and requesting that the Solicitor-General would not travel into the evidence on other trials, but confine his observations to the particular case then before the Court."

This caused the Solicitor-General to be more guarded in his remarks, and the remainder of his address was uninterrupted.

Nearly the same witnesses produced on the former trial gave evidence in this case. But they were now cross-examined by their master. O'Connell, always excellent, now threw all the resources of his acute and vigorous mind into his task, and unmasked, with unsparing questions, the Crown witnesses. It was sug-

[1] This injustice has been remedied by Statute 6 & 7 William IV. c. 114. "Prisoners Counsel's Act."

gested that Sheehan and Nowlan, repenting of their crime, sought to make atonement by bringing their comrades to justice. O'Connell gave the character of what he scornfully called "the *repentant sinners*," from their own lips, and honest men shrank from them as though their touch was pollution. The Solicitor-General negatived the notion that any concert existed between the witnesses for the prosecution. O'Connell elicited the fact that Sheehan and Patrick Daly were constantly found together in Dublin, and, more important, O'Connell's acuteness detected many contradictions and discrepancies in the evidence. Patrick Daly was rigidly sifted, and one of his exclamations showed how valuable O'Connell's aid was,—"It's little I thought, Mr. O'Connell, I'd be answering *you* this day!" Owen Daly, who was represented by the Solicitor-General as "a boy of seventeen—an innocent youth, who would hardly have come forward had he been aware of the importance of his testimony," turned out to be a *boy* of twenty-four years of age, and employed as an informer under the game laws. While under cross-examination, O'Connell declared, with reference to this Owen Daly, he "never saw such *drilling of witnesses* in all his life."

This called up the Solicitor-General, who denied the imputation, and censured O'Connell for using it. In reply, O'Connell said, "Exception might be taken to his words, had he previously made a speech of three hours' duration, commenting upon evidence in a manner such as had never before been heard at the Irish bar."

The Solicitor-General not making any reply, Mr. Bennett, K.C., declared "such remarks were quite uncalled for." But O'Connell said "he did not mean

to suggest that the Crown counsel were the drill-sergeants, and his friend, Mr. Bennett, knew perfectly well to whom the epithet applied."

Throughout the day there was constant tilting between the Solicitor-General and O'Connell. Not content with brow-beating the witnesses, O'Connell endeavoured to brow-beat the Solicitor-General. He once threatened him with impeachment before the House of Commons for his mode of conducting this prosecution. On hearing the Solicitor-General reply, "The allegation is made upon *false facts*," O'Connell caught at the words, and exclaimed in a mocking tone, "*False facts*, Mr. Solicitor! How can facts be false?"

"I have known false facts, and false men too," was the Solicitor-General's somewhat illogical reply.

Another device of O'Connell to excite and irritate the Solicitor-General was by imitating the Anglicized pronunciation of that gentleman. A Mr. Twiss was examined for the defence, to discredit the evidence of Owen Daly. He swore "that Owen was not worthy of credit on his oath." The Solicitor-General inquired, "Had Mr. Twiss been in court during the previous trial, when Owen Daly gave evidence?"

The witness replied "he had."

"Then sir," naturally remarked the Solicitor-General, "it was your duty to have stated what you have now told us, knowing that then, as now, the lives of four fellow-creatures were at stake. I'll ask you no further question, sir. You may go down off that table."

"Naw, daunt go dawn, sir," exclaimed O'Connell, mimicking with great effect the tones of the Solicitor-General, and, amid a roar of laughter, he elicited the

cause why Mr. Twiss was not produced upon the former trial.

Judge Torrens charged the jury in this case. He went very minutely through the evidence, and the jury then retired to consider their verdict. After an interval of nearly an hour, they were called into court, but they had not then agreed. At two o'clock on Tuesday morning they had only made up their minds respecting Barret. He was acquitted. The foreman said "there was no likelihood of their agreeing with respect to the others."

One of the jury said "some of his brother jurors would not believe a single word sworn by Sheehan, Nowlan, or the Dalys." The judges sought to assist the jury in vain. They were compelled to order the jury back to the room, and the judges again returned to their lodgings.

The next day it was the same story. During the afternoon some of the jury complained of illness, one of gout. Physicians examined the complaining jurors, and reported, at six o'clock, "there was no immediate danger;" so the jury were sent back once more.

Until ten o'clock they were locked in, and, once again, the doctors were sent to examine and report on their state. They stated to the Court, "that the juror affected with gout would be in probable danger of death if compelled to pass another night in the jury-room," and this induced the judges to intimate their intention to discharge the jury.

Mr. McCarthy, counsel for the prisoners, contended a judge had no power to direct the discharge of a jury before they had agreed to their verdict. He was willing

the juror in danger should have such refreshment as he needed. This the Court refused to sanction. The Solicitor-General maintained "the Court had the right to discharge the jury, whose lives were not to be risked under any circumstances." And thus, after forty hours sitting together, the second trial of the Doneraile conspirators ended in the disagreement of the jury, causing their discharge.[2]

The following day, after the discharge of the forty hours' jury, at the sitting of the Court, a man named Keeffe was placed at the bar and arraigned as a conspirator.

The prisoner declared "he had come to Cork as a witness for the prisoners; that, instead of being now taken up, he had been charged some months before with being one of the conspirators, and taken before magistrates and police-officers, but that, upon investigation, no case was provable against him, and he was discharged."

The counsel for the Crown informed the judges "that a bill of indictment had been found against Keeffe at the last assizes, and upon this he was now arraigned."

An application was then made on behalf of Conners, Lynch, and Wallis, for a postponement of their second trial. The affidavit on which the application was made

[2] The following analysis has been furnished to me:—

For acquitting Conners, Lynch, and Wallis	9
Against acquitting them	3
For acquitting all	1
Against acquitting all	11

Edward Morrogh, Esq., was the juror for acquitting all the prisoners.

stated a man named Denis Heireen was a material witness for the defence; that he was willing to give evidence, but had been taken from the office of the attorney for the prisoners by Mr. Kelly, of the police, who promised Heireen should be forthcoming on the trial of Leary —but he was not."

Baron Pennefather said, "The Court could not fail to remark that the affidavit was intended to produce a retrospective effect, and he reminded the counsel for the prisoners that he told them if Heireen was a material witness for Leary they ought to have applied for a postponement of his trial until the witness was produced." The counsel who defended Leary declared "that they were not responsible, because Leary insisted on his trial not being postponed." The result of the application was, that the trial of the three men, respecting whom the jury disagreed, was postponed to the next assizes. During this argument, O'Connell highly complimented his learned colleagues, Messrs. Francis McCarthy and Pigot. Baron Pennefather also stated he was much impressed by the able argument of Mr. McCarthy on the previous evening.

On Thursday four more were put upon their trial. They were John Burke, John Shine, Connor, and Murphy. Burke and Shine were farmers. Shine was brother of William Shine, one of those already under sentence of death. The selection of the jury afforded the occasion for the Crown to challenge gentlemen of the highest respectability in the county, such as Mathias Hendley, Laurence Corban, James Morrogh, Rickard Deasy, &c., and an exclusively Protestant jury being impanneled, the Solicitor-General again stated

the case for the prosecution. He alluded to the extent and nature of this formidable conspiracy, and the danger of landlords from the guilt of these men. The evidence to support the prosecution was the same as in former cases. Patrick Daly very glibly (for, as practice makes perfect, he was now well up in his tale) narrated the scene in the tent at the fair of Rathclare; "how the assassination paper was produced for signature; how Burke the prisoner was there as a committee-man; how he, Daly, told it all to Colonel Hill, and swore to it immediately after the fair."

While Daly was thus recounting his now thrice-told tale, Baron Pennefather beckoned to O'Connell, who, at once, went towards the bench to speak with the judge. They conversed for a minute or two, apparently about a paper which lay on the bench. His lordship, having handed the paper to O'Connell, the latter returned to the bar-seat, and read it to himself. While thus engaged, the examination of the witness was suspended, and public curiosity was greatly aroused as to the nature and import of this document which the senior judge handed to the prisoners' senior counsel. Could it be the fearful assassination paper? Having attentively perused the paper, O'Connell rose to cross-examine Patrick Daly. Having ascertained Cousin Owen was *not* in the tent at Rathclare while the writing was going on, he asked "if the witness had described the tent scene to the magistrates the day after the fair; if he had mentioned the assassination order; if he had named the committee-men." To these several queries the witness replied, "Yes." O'Connell then handed him the paper given by Baron Pennefather,

and asked "if that was his signature." The witness admitted "'Twas like it." O'Connell then asked the witness, "Had he told the jury all that happened in the tent?" To which Patrick Daly replied, "Well, then, since you want the whole foundation, Murphy said that there were as bad men in the county as the three named, that Major Maxwell and Mr. Batwell ought to be killed, and that Mr. Daniel Clanchy, of Charleville, would give 100*l.* to whoever killed either gentleman, or 200*l.* for the two."

It turned out that the deposition of Patrick Daly—the document handed by Baron Pennefather to O'Connell—while stating the offer of Mr. Daniel Clanchy (one of the most respectable Catholic magistrates of the county) made before Colonel Hill the day after the fair of Rathclare, did not contain one word about the assassination order. It transpired that these informations had not been returned to the Clerk of the Peace, but that Baron Pennefather had to send for them.

Mr. Owen Daly, the next witness, completely contradicted Cousin Pat. The latter swore Owen was not with him in the tent at Rathclare, while Owen swore he was.

So many important discrepancies existed in the swearing of the witnesses for the prosecution on this trial that, after a long charge from Baron Pennefather, the jury, in five minutes, brought in their verdict of NOT GUILTY.

We can readily imagine with what joy this verdict of an exclusively Protestant jury was hailed by all in court. It was said, the judges were perfectly satisfied

with it, and one of them, addressing Mr. Bennett, said, "George, let me not see your face here again."

Next day, the Solicitor-General informed the judges "that his learned friends and himself had come to the determination not to proceed with any further trials, and that the Crown had no objection that the untried prisoners should be allowed out on bail." This proposal being acceded to, the Solicitor-General spoke in very laudatory terms of the gentlemen who promoted these prosecutions. O'Connell complimented the judges, and much gratitude was expressed by the people for O'Connell's services.

The execution of Leary, Shine, Roche, and Magrath was ruled for the 14th of November, but they were never executed. Their sentence was changed into transportation for life.

At the Spring Assizes of 1830, Conners, Wallis, and Lynch, the three men about whom the jury disagreed at the special commission, were again tried, and on this occasion they were defended by a very able criminal lawyer, who subsequently had the dock to himself on the Munster Circuit, William Deane Freeman. Conners and Wallis were acquitted, Lynch found guilty, and hanged. O'Connell, in the House of Commons, on the 12th of May, 1830, moved for copies of the depositions of Patrick Daly, and the notes of the judges who presided over the Special Commission. He strongly censured the conduct of the Solicitor-General. But the Solicitor-General was well able to protect himself from any such attack, and did it so successfully that the motion was negatived by a large majority—70 to 12.

While the Crown counsel on the Munster Circuit were engaged on the Doneraile Conspiracy Commission, the rest of the members were occupied in redressing the injury sustained by a member of the Bar in the following extraordinary way.

CHAPTER XXIV.

Consequences of Committing a Barrister.—Case of Mr. Croke of the Irish Bar.—Correspondence between the Magistrates and Lord Chancellor Hart.

On the 29th of August, 1829, James Croke, Esq., barrister, proceeded to the Petty Sessions Court at Bruff, in the county of Limerick, having been instructed to appear in a civil proceeding to recover penalties under the statute 57 Geo. III. c. 108. The magistrate's clerk, on learning Mr. Croke was a barrister, offered him the seat usually occupied by professional gentlemen, which Mr. Croke declined. The presiding justices of the peace were Darby O'Grady and Michael Bevan, Esqs. When the case in which Mr. Croke was retained was called, he informed the bench, "that he appeared as counsel." Mr. O'Grady said, "it was a rule established by the Court that counsel should not be heard." To this Mr. Croke replied, "It was a rule which might be departed from." Mr. O'Grady remarked, "We have made the rule, and shall not depart from it." Mr. Croke answered, "He thought such a rule was unconstitutional."

This observation seems to have annoyed the magis-

trate, for Mr. O'Grady responded, "What signifies to us what you think?"

This aroused Mr. Croke, who said, "What he thought was of as much consequence as what the magistrate thought."

Upon this, Mr. O'Grady, in the presence of his fellow-magistrate, ordered the police, who were in attendance, to "take the counsellor and put him in the dock," which order was instantly obeyed. No doubt Mr. Croke felt highly indignant. He was placed before all the people, in the dock appropriated to felons, and then occupied by a man who had been sentenced. When the justices considered "the counsellor" had apprehended the difference between a justice on the Bench, and a member of the Bar, one of them proposed to liberate the counsellor, "*if he made an apology.*"

The captive thus coerced declared, "that no man had a higher respect for the administration of justice than he had, and if he had offended he was sorry for it." The admission appearing sufficiently apologetic the counsellor was suffered to go at large.

There was, naturally, considerable excitement among the peasantry at this incarceration, for Mr. Croke's brother was the respected parish priest of a neighbouring parish, Charleville, and there was much anxiety as to what steps would be taken in consequence of this most audacious infringement on the liberty of a member of the Bar. Action was promptly taken. Mr. Croke went to Dublin, and in Michaelmas Term a meeting of the Bar of Ireland was convened. The meeting drew up a memorial to the then Lord Chancellor of Ireland,

Sir Anthony Hart, calling his attention to the conduct of the two magistrates.

Upon the receipt of this document the Lord Chancellor wrote to Mr. O'Grady as follows :—

"*Dublin, Dec.* 11, 1829.

"SIR,—The memorial I transmit with this letter was sent to me by direction of the assembled Bar of Ireland. The proceedings at the sessions to which it refers surprised me when I first heard of them. As the head of that body to whom his Majesty confided the dispensation of justice to his subjects in this country, it is my duty to inform you that it is the privilege of those subjects to be heard by counsel in all his courts, for supporting and defending their civil rights; and the rule last laid down in the court wherein you preside, precluding that privilege, is illegal, and must be immediately rescinded.

"I am, &c.,

"ANTHONY HART, C.

"Darby O'Grady, Esq."

Mr. O'Grady lost not a moment in replying to the Lord Chancellor thus :—

"*Bruff, Dec.* 12, 1829.

"MY LORD,—I have had the honour, this day, to receive your lordship's letter of the 11th instant, enclosing me a memorial sent to your lordship by the assembled Bar of Ireland, and expressing your lordship's surprise at the proceedings at the sessions, when you first heard of them.

"Your lordship's letter, and the memorial enclosed in it, I shall lay before the magistrates at the petty

sessions at Bruff, on Wednesday next, which is the weekly day of meeting.

"I fear your lordship has been imposed on in the account of these proceedings, and that the assembled Bar have acted with somewhat too credulous a haste in giving implicit belief to an *ex parte* statement, made by an individual who naturally wishes to convince others that he has been ill-used, and to persuade so respectable a body as the Bar to make common cause with him; and my surprise is extreme that so very experienced and talented an assembly should have so easily lent themselves to his views, though there are, certainly, some individuals in that body who ought to be perfectly aware that, although a statement may be very positively asserted, it may, nevertheless, not be true, and in some instances has been retracted even by the person who made it; and this knowledge ought to have deterred a legal body from coming to any decision on such very questionable grounds without any previous investigation whatever. Before I send your lordship any statement of Mr. Croke's misconduct, and the reasons which induced my brother magistrate, Mr. Bevan, and myself to act towards him as we did, it will be necessary for me to see Mr. Bevan. In the meantime I beg to assure your lordship that Mr. Croke was committed for a very violent riot in the court, such as rendered absolutely necessary the harsh measures which were adopted towards him.

"I have the honour to be, &c.,

"DARBY O'GRADY.

"To the Right Hon. the Lord Chancellor."

There was no evasion here, at all events. The committal of the barrister was admitted, but justified on the ground of his violence. A few days brought the statement of the magistrates to the Chancellor, as follows:—

"*December* 16, 1829.

"My Lord,—At a petty sessions, held at Bruff on the 26th August last, the undersigned were the presiding magistrates, and the court was unusually crowded. A case against the toll-keeper of the fair of Drummin, was called on. A person addressed the Bench from the midst of the crowd, under the gallery and at the back of the court. The magistrates desired him, if he had anything to say to the case before the Court to come forward and say it. This person then, without moving from his place in the crowd, which was pressing on, said he was engaged in the case. The magistrates told him they could not listen to him, as it was a rule of the Court not to hear professional persons. This person then said the rule ought to be departed from, and was, he thought, unconstitutional. The magistrates replied it was the rule of the Court, and that what he thought of it could not induce them to depart from it. He then added, that what he thought of it was of as much consequence as what they thought of it. He then became silent, and the case before the Court was proceeding, when the business of the Court was interrupted by a very general riot and disturbance, occasioned by the mob forcing its way into the court, and this person at its head, advancing in a riotous, menacing manner, using abusive and insulting expressions to the magistrates, and holding up his clenched

fist towards them in a threatening attitude. The magistrates instantly desired the police to put this person in the dock, and he was put in accordingly. He so remained in the dock fifteen or twenty minutes, when, on making an ample apology for his misconduct, he was dismissed. Here it may be necessary to remark, this person heard the Bench refuse to hear a professional gentleman (stating the rule forbade it), and, also, he saw a man committed to the dock for insulting one of the magistrates, and that both these occurrences took place immediately previous to his first addressing the Court. He therefore knew the rule of the Court, and he was also aware of the offence for which his companion in the dock was committed, and he therefore knew he was not a perjurer.

"The magistrates had never seen this person before, but after he was some time in the dock they were told his name was Croke, and that he was a barrister. This, the magistrates think it right to state that neither the rank nor profession of any person could have shielded him in a court where they preside from the punishment due to such gross misconduct.

"From the unusually thronged state of the court, from the noise proceeding from the crowd, and from the post in the centre of it taken by Mr. Croke, the magistrates early apprehended a riot, and their suspicion lighted upon Mr. Croke as its probable leader. There was nothing in Mr. Croke's appearance or manner to alter this unfavourable impression; his face was partly disguised, as if to prevent his being recognized, and from his dress and deportment, and the whole tenor of his conduct, the magistrates never sus-

pected he was a gentleman, and had considerable doubts whether he was sober. These very unfavourable impressions on the minds of the magistrates have received strong confirmation from information which has since reached them, and they beg to call your lordship's attention to the following facts:—When Mr. Croke entered the Bruff petty sessions court, which is also the quarter sessions court-house, he addressed the crowd collected in the hall, in a loud and distinct voice, and told them he was come there to humble the magistrates; that he would be assistant-barrister for that day, and several other such-like observations. The clerk of the court, seeing Mr. Croke was a stranger, and hearing he was a barrister, offered to conduct him to the seat set apart for professional persons, which offer Mr. Croke declined. The police did open a passage for Mr. Croke to take his proper station in the court, which Mr. Croke once more declined doing, and kept his station in the midst of the crowd at the back of the court. This place Mr. Croke occupied during his conversation with the magistrates, nor did he leave it until he began the riot for which he was committed, and he was not arrested in his scandalous career until he had reached the bench, and was proceeding to scramble into it.

"The magistrates beg, in conclusion, to assure your lordshp that, in their own observations, backed by the information they have received from others, they are convinced that Mr. Croke came to the petty sessions at Bruff, on the 26th of August last, with the intention of creating a riot, that he did afterwards create a riot, and that, consistently with the duty they owe to their

country, to the administration of the laws entrusted to them, and to their own characters as magistrates and gentlemen, the most lenient course they could have pursued towards Mr. Croke was that which they adopted.

"With respect to reparation, the magistrates think, from the perusal of this statement, your lordship will perceive it would be due from Mr. Croke to them, had not that person already atoned for his misconduct by a very full and satisfactory apology.

"The magistrates feel great delicacy in making any allusion to the memorial presented by the assembled Bar of Ireland, and which your lordship has transmitted to them. The magistrates hold the Bar, collectively, in high esteem; to many members of that respectable profession they are bound by ties of the nearest and dearest; with great reluctance, therefore, they are obliged to offer an observation on that very extraordinary document.

"It may be doubted whether any body whatever (and the Bar are no exception) should be allowed to decide on their own privileges; but when, in the assertion of these privileges, foul imputations are to be cast on others, there can be no doubt that the greatest caution should mark their proceedings. In the resolutions of the Bar, the magistrates do not see that extreme caution which they should have expected from so august an assembly. The Bar began by taking for granted a statement the truth of which they do not pretend to have investigated, but in the faith of which they do not hesitate to adjudicate; and, accordingly, they pronounce sentence on magistrates over whom they cannot pre-

sume to have any control; and, finally, they call upon your lordship to carry into execution this well-digested condemnation.

"It seems awkward that when lawyers are employed, legally and constitutionally, to protect and enforce the rights of others, time and money are squandered in lavish profusion before any conclusion can be arrived at; but when they undertake their own cause, with a hop, step, and a jump, they can clear away every obstacle, pronounce their sentence, and leaving law, justice, and jury far behind, with an unpardonable temerity call upon your lordship to become their executioner.

"We have the honour to be, &c.,

"DARBY O'GRADY,
MICHAEL BEVAN."

It is hard to say what impression the fearless statement of the county Limerick magistrates made on the Lord Chancellor. He thought such discrepancy as existed between the account of the Bruff dock business, given by Mr. Croke on the one hand, and the Bruff magistrates on the other, could only be determined by the intervention of a jury. This view he puts in his reply to the statement:—

"*Dublin, Dec.* 22, 1829.

"GENTLEMEN,—The memorial of the Irish Bar which I transmitted to you, was sent for the purpose of your making such observations on it as the case might require; for though I had no difficulty in expressing my opinion on the facts as there stated, it was not my intention to exclude any explanation or counter-state-

ment, or to prejudge a question affecting the magistracy, without affording them an opportunity to vindicate themselves. Your statement to me shall be sent to the adjourned meeting of the Bar, on the same principle that their memorial was communicated to you, and should the difference be found irreconcilable, it must, I fear, be referred to a different jurisdiction from that which the Chancellor exercises.

"I am, &c.,

"ANTHONY HART, C.

"To Darby O'Grady and Michael Bevan, Esqs."

Instead of an action for false imprisonment, an action for libel was brought by Mr. Croke against the two magistrates; the alleged libel being the imputations cast upon him in the statement submitted to the Lord Chancellor.

The case came on for trial in the Court of Common Pleas, Dublin, before Lord Plunket, Chief Justice; and Messrs. Perrin and Holmes were counsel for the plaintiff.

Mr. Long, the Lord Chancellor's secretary, was called on by the plaintiff's counsel to produce the statement containing the alleged libel, and thereupon a novel point arose. Mr. Long stated, "The Lord Chancellor considers that, under the circumstances in which the letter came to his lordship's hands, he does not think it ought to be produced, but his lordship wished it to be mentioned, that if Lord Plunket thought differently, the Lord Chancellor would yield to the opinion of the Lord Chief Justice of the Common Pleas."

Mr. Holmes, for the plaintiff, contended, "His client

was entitled to the production of this document. He submitted it lay with the Chief Justice to determine the point, and not for any witness, however respectable."

Lord Plunket "agreed with Mr. Holmes; he was the arbiter, but it was quite impossible not to remember who was the witness here. He could not refuse to respect the scruples of the Keeper of the Seal. Whatever his own opinion was, he ought to defer to that of the Chancellor. He felt less reluctance in so doing because, if wrong, there was an appeal to the full Court."

Mr. Bennett, K.C., who was counsel for the defendants, contended this was a privileged communication, and relied upon Wyat *v.* Gore,[1] and Hone *v.* Bentinck.[2]

Mr. Holmes, in reply, argued "this was neither a confidential nor privileged communication, as in the cases cited. He relied on a case in 1st Saunders, p. 131."

Lord Plunket said, "When so high a judge as the Lord Chancellor regarded this as a privileged communication, it would ill become him to hold the contrary, at least without a conference with him on the subject." He adjourned the court for this purpose, and, on resuming, Lord Plunket said, "He had the opportunity of hearing the Chancellor's opinion, which was that he ought not to produce the document. He (Lord Plunket), could not rule against that opinion, and as the plaintiff must be nonsuited, requested he would obtain the judgment of the full court. He had, how-

[1] "Holt's Nisi Prius Cases," p. 290. [2] 3rd Bingham.

ever, this suggestion to make: let the case be tried on consent that a copy of the document be received as the original, subject to the point, that if the Court was of opinion the original document ought not to be produced, the evidence on the copy should go for nothing."

This suggestion was adopted. The trial proceeded, and the plaintiff clearly showed the allegations of the statement were libels. The jury found for the plaintiff, 500*l.* damages, and 6*d.* costs. It does not appear that any attempt was made to disturb the verdict. Mr. Croke received a colonial appointment, that of Solicitor-General in New South Wales, where he remained many years, and realized a handsome independence. He returned to his native country and died. His nephew is now the highly-gifted and justly-respected Prelate, Dr. Croke, Archbishop of Cashel.

CHAPTER XXV.

Eminent members of the Munster Bar from 1833 to 1850.—Sergeant Jackson, M.P.—George Bennett, Q.C.—Mr. Collins, Q.C.—Mr. Henn, Q.C.—His first brief on the Munster Circuit.—Mr. J. D. Fitzgerald.—Mr. Brereton.—Mr. Otway.—Mr. Isaac Butt.—Mr. Chatterton.—Mr. Wyndham Goold, M.P.

WHEN I joined the Munster Circuit in 1838, the leaders were Mr. Sergeant Jackson, M.P., Mr. Bennett, Q.C., Harry Cooper, Q.C., Jonathan Henn, Q.C., and Stephen Collins, Q.C. Mr. Woulfe, Q.C., who for many years had been a very eminent member of the Munster Circuit, was, in the year 1834, appointed third sergeant. In 1836 he was made Attorney-General, and in 1838, on the death of Chief Baron Joy, Mr. Woulfe succeeded him as Chief Baron; but, alas for the mutability of all earthly greatness, this distinguished lawyer had no sooner attained the distinction of the Bench, than bodily infirmities seized him, and, after a struggle for two years, he died in 1840.

At this period Mr. Pigot, another leader of the Munster Circuit, was Attorney-General for Ireland, so those I have named had the leading business of the Circuit. And well were they able to cope with it.

Joseph Devonsher Jackson was an admirable *nisi prius* lawyer, greatly respected by all his brethren of the Bar, and by the public at large. Though of high Conservative politics, no one ever knew what his politics were in the discharge of his professional duties, or his intercourse with the members of the Bar mess. He possessed great fluency, an impressive court manner, great sagacity in selecting his topics for the jury.[1]

George Bennett, Q.C., the father of the Munster Circuit in my time, was born in the city of Cork on the 20th September, 1777. His father was a judge of the Court of King's Bench. Mr. Bennett was called to the Bar in 1800, and soon went the Munster Circuit. He had many excellent ingredients for professional success—considerable legal knowledge, a clearness in statement, and remarkable insight into the character of the lower orders of the Irish. For many years he held the then very lucrative office of Crown Prosecutor on the entire Circuit, and the confidence reposed in him by the public often caused him to be employed as an arbitrator. It is said when he was offered to be made King's Counsel by Lord Manners, Chancellor in 1822, he said, "I'd rather he gave a silk gown to my wife." However, he accepted the rank, which gave him legal standing.

In the profession one great cause of his success was his plain, unpretending style of addressing juries. The utter absence of pretension in his mode of speaking, the unadorned, conversational tone he employed, gave him almost implicit credence with witnesses and

[1] Sergeant Jackson became Solicitor-General in 1841, and sat for many years on the Bench of the Common Pleas.

juries. Indeed, it seemed as if some juries, after his statement, were unwilling to be put to the delay of hearing his statement borne out by witnesses, as they could not imagine anything could be more conclusive than his words. Before the members of the Munster Circuit adopted the habit of wearing wigs and gowns on circuit, George Bennett, in his dark shooting-coat, plaid waistcoat, and grey or check trousers, might easily have been taken for a gentleman farmer, instead of an astute lawyer, and the leader of the Munster Bar.

Stephen Collins was also one of the leaders of the Munster Circuit. Nature evidently designed him for the profession he had chosen. At school he was a diligent scholar, in college an unwearied student, at the Bar a most painstaking and learned practitioner. On the Circuit he was retained in almost every case on one side or the other, and his knowledge of cases in point, his readiness to discuss admissibility of evidence, or to take advantage of any defect in his adversary's pleadings, showed how important it was to secure or silence his advocacy. No one approached him in quickness to except to the charge of a learned judge, to detect some weakness in his adversary's proofs, entitling the defendant to a nonsuit. His familiarity with the rules of pleading, his promptnes at applying the rules of evidence, the conflicts between him and his singularly gifted brother-in-law, Jonathan Henn, were not only improving to mark, but often amusing to observe.

It often struck me Mr. Collins took as much pleasure in discussing abstruse questions of law as a foxhound in pursuing sly Reynard. He breathed an atmosphere of law, and it is related that on his way back from

church after being married, he stopped his bride's carriage at a law stationer's to buy a law book, and, after leaving her at home went to a consultation. When going to the castle, to the Lord-Lieutenant's *levées*, he was seen reading his briefs. From his readiness in upsetting an adversary on some technical point he was thought rather a sharp practitioner, and an anecdote, bearing on this, may be quoted here.

When Mr. Pigot, who had been called to the Bar later than Mr. Collins, but obtained his rank as King's Counsel before him, was retained in a case with him, on the question of leadership arising, Mr. Collins said, "I yield, my friend *holds the honours*."

"If he does, Stephen," wittily observed his friend, Mr. Herrick, "'tis you have *all the tricks*."

Mr. Collins was sagacious and careful. Though I have had frequently an opportunity of hearing him address juries, there was nothing very eloquent in his speech worthy of special remark. His addresses were clear and careful narratives, supporting some legal propositions, which were ingeniously dovetailed together, so as to impress the jury with his view of the case. His appearance was very prepossessing. Methinks I see him now, his youthful face denoting quick intelligence—his eyes aided by spectacles—his small mouth indicating firmness and decision. I rather think his early death was owing to having overtaxed a frame never very robust. Often have I seen him suffering from rheumatic pains, yet addressing juries on circuit. He was, as he well deserved to be, a general favourite.

Harry Cooper, Q.C., was quite a character. His

cranium, bare as a billiard ball, his Jewish cut of countenance, his quick black eyes, his pleasant, playful smile, once seen could not be readily forgotten; and then his flow of words—what an avalanche it was—quick as they could pass the lips rolled forth his arguments in one rapid and resistless flood. I never heard anything like it. Some one happily said, "Cooper had the knack of talking short-hand," but he defied stenography. No pen or pencil could catch him.

He was called to the Bar in Hilary Term, 1806, and was made King's Counsel in 1835. He had considerable practice, was an excellent Common-law lawyer, a good pleader, and a safe writer on cases.[2]

Of JONATHAN HENN, Q.C., I cannot speak too highly. Yet he was so intensely devoid of ambition, and so indisposed to exertion, he remained all his professional life either a member of the Munster Circuit, or chairman of the county of Donegal, when, by working for dignities, he would assuredly have held a Chief Judgeship or the Seals. His legal acquirements were of the highest order. He had, I may say, hereditary claims to legal distinction. His ancestor was Chief Baron Henn; his grandfather a judge of the Court of King's Bench; his father a Master in Chancery, a dignity which his elder brother, William, held for many years.

Jonathan Henn was only twenty-one years of age when he was called to the Bar. His brother William having selected the Munster, Jonathan went the Connaught Circuit. This circuit was then led by Mr., afterwards

[2] Mr. Cooper died in May, 1841.

Judge Vandeleur, K.C. So great was this barrister's opinion of the legal abilities of Jonathan Henn, Mr. Vandeleur invariably sought his advice in all cases of difficulty that arose. I am surprised that this opinion of the leader of the circuit did not influence the Connaught attorneys to send Mr. Henn briefs. It is said, however, that when he got one, in which he had to examine a witness, he did it so badly, his senior took the witness out of his hands, and concluded the examination, which, no doubt, was a great slur to the junior counsel.

Another story is told of a Galway attorney calling, with a brief, at his lodgings in Galway, during the Assizes, before Jonathan rose from his bed. The attorney awaited the lazy barrister, who had to be roused from a sound sleep. When told an attorney wanted him in the next room, Henn thought it was a trick of the junior Bar, and said he needn't wait. Being informed he had a brief to give him, Henn called out, still thinking it was a *ruse*, "to take the brief to the D——." The attorney, in a rage, left the house, and Henn lost his brief.

Soon after, the appointment of his brother William, as Master in Chancery, induced Jonathan to exchange the Connaught for the Munster Circuit. He was, of course, unknown to the practitioners, but had powerful friends among the county gentlemen of Clare. A very important record, in which a watercourse question was involved—was to be tried in Tralee, and the plaintiff had secured all the leading lawyers on the Munster Circuit, with the celebrated Mr. Edward Pennefather, K.C., as special counsel. The defendant, Mr. Tuthell,

of Faha, in the county Limerick, complained bitterly to two Clare gentlemen, Heffernan Consedene and Giles Daxon, both respectable gentlemen, and personal friends of the Henn family, "how successfully all the leading members of the Munster Bar had been secured by the plaintiff's attorney, and how he, the defendant, could not obtain even special counsel from Dublin, as all he sent retainers to were pre-engaged."

"The consequence is," said Mr. Tuthell, "if the plaintiff succeeds I'm a ruined man."

"That's a bad look out, Tuthell," said Giles Daxon; "but perhaps you have yet a chance. Tell me, did you try to retain Jonathan Henn?"

"Jonathan Henn," repeated Tuthell. "Who is he? I never heard of any barrister of that name?"

"Do you hear this, Heff?" cried Daxon, slyly winking at his countryman. "Tuthell never heard of Jonathan Henn. Never heard of the cleverest lawyer in Ireland?"

"By George!" chimed in Consedene, "he is the cleverest man at the Bar. If my life or property were at stake, I'd rather have him as my counsel than all the other lawyers on the Munster Circuit."

Thus they puffed off their personal friend, who they knew to be an excellent lawyer, though unknown to the public. When Jonathan Henn entered Tralee for the Assizes, he found a heavy brief—with twenty guineas—awaiting him, on behalf of Mr. Tuthell, with William Deane Freeman as his junior. The rest is soon told. He mastered the brief—and, undismayed, surveyed the redoubtable Edward Pennefather, Ser-

geant Goold, and other leaders of the Munster Circuit arrayed against his client.

The pleadings opened, Mr. Pennefather, in his dulcet tones, and impressive manner, stated the plaintiff's case. The first, and most important witness, was examined by the senior counsel, and cross-examined by Jonathan Henn. Then the wonderful abilities—which hitherto—like the ore of the mine—had lain unseen and unnoticed, now revealed, burst forth in brightness, and showed their value. The answers he elicited from the witness demolished the plaintiff's case so completely that, when Mr. Henn finished his cross-examination, Mr. Pennefather threw up the case. Mr. Tuthell had the verdict, and Jonathan Henn's reputation, as the ablest lawyer on the Munster Circuit, was fully established.

For some time after this triumph he was known by the *soubriquet* of "the *Water hen.*"

"Able and gifted as he was," writes his accomplished nephew, Mr. Richard Griffith, "he never rose to address a jury without a nervous and uncomfortable feeling, which made him feel a longing to sit down, and, accordingly, at the age of sixty, he retired, as he had long intended, from the active duties of his profession, retaining his A.B., C.D., or Assistant-Barristership, County Donegal, till the age of seventy, which he then resigned on a pension."

Refusing to enter Parliament, he never was promoted to office. We have often felt what a Chief Justice or Lord Chancellor was lost in him. He resided in Dublin, in Upper Merrion Street; but died in Bray, whither he had gone for the summer of 1874.

Henn's voice was full-toned, and suited to his personal appearance, and to his calm, impressive delivery. He spoke in such a tone of judicial impartiality that a casual listener would have supposed he addressed the jury on the entire merits of the case, when, in fact, he was only advocating his client's share of it. When an important case tried in Cork—Jagoe *v.* Hungerford—to ascertain the genuineness of a contested will, brought down the far-famed orator of the Irish Bar, James Whiteside, subsequently Chief Justice of the Queen's Bench, as special counsel for the plaintiff, a lady told me she accompanied several friends of hers to listen to the speeches of the counsel on both sides. I asked her what she thought of them. "I thought," she said, "the defendant must be in the right. Mr. Henn *looked so honest,* and during his speech he seemed only to think of his client, while Mr. Whiteside seemed never to forget—Mr. Whiteside."

That Mr. Henn was indisposed to undertake severe work may be inferred from the following anecdote:—

"Mr. John Macnamara Cantwell, a very eminent solicitor of Dublin, hearing of Mr. Henn's reputation on the Munster Circuit, sought his services in a heavy equity cause. He saw the leading counsel of Munster lounging about the hall, and, accosting him, held out the brief marked with a large fee."

"The case is important," said Mr. Cantwell, tendering him the fee, "and much is expected from you, Mr. Henn."

"Oh! my dear sir," said the Queen's Counsel, quietly pushing back the hand with the bank-notes "you had

better give the brief to some gentleman who will attend to it."

Mr. Henn was in very independent circumstances, and devoted to the sport of fishing. Having no domestic cares—he never married—chairman for the county of Donegal, with lucrative circuit practice, and some private fortune, he preferred ease to labour, and the sport he loved, to toil he disliked. Yet on circuit he flinched from no trouble in mastering his briefs. I never found him wanting either in reference to facts or law. His speeches were masterpieces of forensic oratory, unadorned it may be, yet perfectly suited to the occasion, and clear as a running stream. He used, in his speeches throughout, what some one aptly called "the level language of the gentleman," and, as an admirer of his once said to me, "Sir, Mr. Henn, both practically and theoretically is a gentleman."

Beside these very distinguished leaders of the Munster Circuit there were many others, who, full of learning and ability, were biding their time. Many have since passed away. Some, who at one time went circuit without briefs, now dispense law from the Bench, while others got rapidly into practice, and, from the very outset in their professional career, proved their capacity for business. Foremost of this latter class was a young gentleman who joined the Munster Bar about the same time as I did; we were called side by side in Easter Term, 1838. His name was John David Fitzgerald. The legal education of this most able member of the circuit commenced in his early youth, and was pursued with intense application. When he was called, at the age of twenty-three, he

was a very distinguished lawyer. I happened to be present in the Court of Exchequer when he made one of his first arguments in a contested motion, and I was much struck with the cool, self-possessed manner in which he addressed the Court, and the able reasoning by which he gained his point, greatly to the surprise of Mr. Walsh the opposing counsel, who imagined the Chief Baron (Woulfe) had ruled in his favour. By this argument Mr. Fitzgerald gained the approbation of the Bench, the esteem of the Bar, and probably more important to the junior counsel, the hearty admiration of the attorneys, who soon sought his services. His life, thenceforward, for some years, was of intense and continuous labour. He told me, as we were leaving the library of the Four Courts, on the last day in Term for drawing declarations, "he had been at his desk at three o'clock that morning." On circuit, as when in Dublin, he was eminent in business, and few ever went into court better prepared. His practice in every assize town on the circuit was very great. When but nine years at the Bar, in 1847, he received the silk gown of Queen's Counsel, and then became one of the leaders of the Munster Circuit. He was desirous of parliamentary duties, and, in 1852, was returned M.P. for Ennis, which he continued to represent while at the Bar. His position soon made him sought for as a law officer of the Government, and he was appointed Solicitor-General in 1856, and succeeded Mr. Keogh as Attorney-General in 1858. On the resignation of Judge Perrin in 1860 the Right Hon. the Attorney-General became the fourth Justice of the Queen's Bench.

The tribute from the leading Conservative organ in Ireland to his merits at the Bar is so just I cannot omit quoting it here. "Of the new judge we have only to say, if he perseveres in the course of manly and calm independence which he followed during his service as first law officer of the Crown in Ireland, he will not fail to fill the highest place he is henceforward to occupy, to the satisfaction of the candid and right-thinking portion of his fellow-countrymen. Mr. Fitzgerald was frequently placed in trying and difficult circumstances during his tenure of office, and, we are bound to say, he was not found wanting to the occasion." Not less complimentary were the criticisms on his parliamentary career, which was described as "one seldom maintained by Irish representatives." His career on the Bench—in which all who have watched the trials of the Fenian conspirators have abundant proof—shows that the same course of manly independence which the *Dublin Evening Mail* so lauded in the barrister has been fully sustained by the judge.

The late William Westropp Brereton, or, as he was more usually called, "Billy Brereton," is another whose memory I wish to recall. He had considerable legal talent, and a rough, bustling manner, that made him very useful in *nisi prius* cases. He was a fluent, if not a graceful speaker, and some topics of his addresses to juries had good point. Once, when defending a prisoner, against whom he contended the evidence of guilt was insufficient, he insisted on their recollecting "the great principle of English law—that every man is presumed innocent until he is proved to be guilty—and, on that Great Day, gentlemen, when we ourselves

are called before the Bar of Divine Justice, may you and I *get the benefit of the doubt.*"[3]

Mr. Brereton was called to the Bar in 1836. He was added to the list of Queen's Counsel in 1852, and, on the resignation of Mr. McDermott in 1858, appointed Chairman of county Kerry. He held the Chairmanship of the county of Galway to the time of his death.

John Hastings Otway, Q.C., now County Court Judge of Antrim, and Recorder of Belfast, was greatly beloved and esteemed on the Munster Circuit. He was the eldest son of one of Ireland's most popular authors of works of Antiquarian and Topographical interest, the Rev. Cæsar Otway, one of the most constant contributors to the *Dublin University Magazine* in its early days. John Hastings Otway, having carefully prepared himself for the legal profession, was called to the Bar in 1832—and, having married a lady —native of the county Cork—daughter of James Hill, Esq., of Craig, went the Munster Circuit. He had a very extensive range of practice, and many who gained distinction at the Bar learned their experience in his chambers. He was called to the Inner Bar as Queen's Counsel in 1852, and shortly after the retirement of another excellent member of the Munster Circuit the late John Gibson, became Assistant-Barrister of county Antrim, where he still dispenses justice.

The late Isaac Butt, Q.C., M.P., born in 1813, was a very remarkable man. His father, the Rev. Robert

[3] *Ex Relatione* J. P. Hamilton, Q.C., Recorder of Cork.

Butt, Rector of Stranorlar, county Donegal, gave him every advantage in the way of education; and maternally he claimed descent from the celebrated Berkeley, Bishop of Cloyne. He obtained a Scholarship in Trinity College, Dublin, in 1832, and gained several honours, both in science and classics. Having taken his degrees in 1835, in the following year he was appointed Professor of Political Economy, then recently established by Archbishop Whately, being only twenty-three years old. On this occasion he had to undergo a very severe examination, and encountered and triumphed over many brilliant competitors. Having studied for the Bar, he was called in 1838, and joined the Munster Circuit. He was elected alderman in the Corporation of Dublin, and contended against O'Connell, who brought the question of Repeal of the Union before the Corporation. Though defeated by a large majority who supported O'Connell, Butt's ability was proved by his ingenuity and fluency. He was advanced to the rank of Queen's Counsel in 1844, and, as he was highly esteemed by the Conservative party, entered Parliament for the borough of Harwich in 1852. He subsequently sat for Youghal, and, in after-life, having adopted the National cry of Home Rule, was elected member for the city of Limerick in 1871, and unanimously acknowledged the leader of the Home Rule party in the House of Commons, to the time of his death in 1879.

Few men ever had greater opportunities of advancement than Mr. Butt. His manners were most captivating, open, genial, and cheerful. He was distinguished for great oratorical powers in addressing

juries, great intrepidity, and accurate knowledge of criminal law. During the various occasions when insurrectionary outbreaks—speedily suppressed—set the law in motion against state prisoners, Mr. Butt was always counsel for the defence. When Smith O'Brien, Thomas Francis Meagher, and others, were tried in 1848, he, with Mr. Whiteside, was engaged for the prisoners, and also when parties indicted for sharing in the Fenian Conspiracy were tried, he was their leading counsel. One of his most up-hill cases was the defence of Kirwan—indicted for the murder of his wife on Ireland's Eye, a small island near the hill of Howth. Mr. Butt's energies were divided between the Bar and political life, and, though possessed of talent for the Bench, or the State, never held any appointment in either.

One of the most promising juniors, cotemporary with me on the Munster Circuit, was a native of Cork, bearing names well known and respected, both in county and city—Hedges Eyre Chatterton. His father, Abraham Chatterton, was a highly respected citizen of Cork, and the future Vice-Chancellor of Ireland was born in the city in 1819. Having graduated with great distinction in the Dublin University, Mr. Chatterton was called to the Bar in 1843, and joined the Munster Circuit. His accurate knowledge of Common law and Equity, and skill as a pleader, soon obtained him practice, but he preferred the quiet equity to the bustling Circuit Court, and, as consulting counsel, had large practice. He became one of her Majesty's Counsel in 1858. His eminence at the Bar caused him to be selected as Solicitor-General in 1866, and

the following year, owing to rapid promotion, found him Attorney-General. A vacancy then occurring in the representation of the University of Dublin, owing to the elevation of the Right Hon. James Whiteside as Lord Chief Justice of the Queen's Bench the Attorney-General was elected in his place. No Attorney-General for Ireland was more esteemed, both in the House of Commons and the Irish office than Mr. Chatterton, from his prompt, careful, and efficient mode of transacting business. On the passing of the Chancery Act of 1867, the Attorney-General was selected for the important office of Vice-Chancellor, which was hailed with great satisfaction, by both branches of the legal profession.

WYNDHAM GOOLD, son of the Master in Chancery, was one of my dearest friends and companions. We shared the same social circle, and I seldom met any one who possessed such personal attractions and accomplishments. He had an ample fortune, and was member of Parliament for the county of Limerick, of great personal beauty, and, I believe, he never caused a pang to a human being, until his early death caused his friends to mourn him.

Some *bon mots* of Wyndham Goold show a playful disposition, joined to ready wit. Old Mr. Crowe, of Ennis, Colonel Wyndham's agent, was remarkable for the extraordinary length of his nose. It was flexible as an elephant's trunk, and wagged from side to side whenever he moved or spoke. Mr. Crowe was appellant in a Civil Bill Case before Judge Jackson. The merits of the case were with him, but the judge was coerced to refuse disturbing the decision of the Chair-

man of Quarter Sessions, and told Mr. Crowe "he could only obtain relief in Equity," adding, "I regret I cannot do what you are entitled to, as this Court is only a Court of Equity for the defendant. If you want to enforce your claim you must go to the Lord Chancellor."

"Tom," whispered Wyndham Goold to his friend, Mr. Thomas Rice Henn, as old Crowe's nose was wabbling backwards and forwards, "It is plain Crowe will have to *file his bill.*"

While walking, on a winter's day in Nassau Street, with a brother barrister, named Hunt, the ice was so great he would have fallen, more than once, had not Goold, on whose arm he leant, prevented him.

"If you don't mind where you walk," said Goold to his friend, "you'll be called 'Hunt the Slipper.'"

This most elegant and accomplished member of the Bar, and the Senate, was cut off in the bloom of youth.

Others, who were of great promise, afterwards fully sustained, would merit more space than I have at command.

The Hon. John Plunket, Q.C., G. B. Hickson, Q.C., Richard Lane, Q.C., Jeremiah J. Murphy, Q.C., afterwards Master in Chancery, Joshua Clarke, Q.C., County Court Judge, Christopher Copinger, Q.C., R. R. Warren, now Judge of the Court of Probate, Stephen Woulfe Flanagan, now one of the judges of the Landed Estates Court, and Privy Counsellor, Wm. B. Campion, Q.C.; Thomas Rice Henn, Q.C., now County Court Judge, and Recorder of Galway, Thomas De Moleyns,

Q.C., Mr. O'Hea, Mr. J. S. Green, Q.C., Mr. Woodroofe, Q.C., are all names well known and appreciated on the Munster Circuit. As my personal acquaintance with the circuit ceased in 1850 I must leave the fame and career of the able members who so fully sustain the prestige of the past to other and worthier pens.

CHAPTER XXVI.

Judge Ball.—Anecdotes relating to him.—Chief Baron Brady and Judge Burton.—Judge Burton's fondness for Dickens's works.—Forbearance of the people of Fermoy.—O'Connell declined to meet the Judge at dinner.

In the summer circuit of the year 1840, for the first time we had Judge Ball as the companion of Serjeant Greene. It was not long previously that Judge Ball had been raised to the Common Pleas Bench on the retirement of the Hon. Arthur Moore in 1839. Judge Ball's life at the Bar had been passed chiefly in the equity courts, for, though he went the Connaught Circuit for some years, his lucrative practice in Chancery, and especially in the Rolls, absorbed all his time. In 1838, when the eminent member of the Munster Circuit, Mr. Woulfe, became Chief Baron of the Exchequer, Mr. Ball succeeded him as Attorney-General for Ireland. He represented Clonmel in the House of Commons, where his social talents and pleasing manners made him extremely popular.

It was related—but I will not vouch for the truth of the story—that Judge Ball was so much annoyed by the noise of a mill-wheel close to the court-house of Cork, that he peremptorily ordered the miller to cease

his work while he was engaged in disposing of the business of the assizes. This was accordingly done, but, as the judge did not inform the miller when he might resume his grinding operations, the miller remained some months idle, and threatened the judge with an action for loss and damage sustained, but that a liberal compensation atoned for the judge's forgetfulness.

Another story is related of Judge Ball, that a half-crazy blacksmith once entered the assize court while he was on the bench. The smith was in a half-intoxicated state, but managed to slip past the policeman at the side-door, and stood near the dock facing the judge. He looked the very picture of an Irish rowdy — dressed in a loose frieze coat, corduroy breeches, grey stockings, and stout brogues, while wearing no necktie, portions of a very dirty shirt wide open, disclosed a bull neck, sadly in want of the application of soap and water. His fiery red face, bronzed by the heat of the forge and the copious libations of whisky, was not concealed by the hat, which, despite the applications of the police, the son of Vulcan declined to remove, for the aforesaid hat and its brim had parted company, and the crown seemed disposed to follow suit.

Finding Mick Cahill would not take off his hat, although repeatedly requested so to do, the policeman next him quietly took it off, and the bold smith, resenting this as an insult, then and there struck the constable, and floored him in the presence of judge and jury. The scene which ensued may be more easily imagined than described. All the police in the

court-house rushed to execute the order of Judge Ball, who desired the offender guilty of such contempt of court "to be brought before him."

The police tried to seize Mick, but Mick struck right and left, and at every blow down went a green-coated, black-belted Peeler. The force had to be reinforced before Mick was captured. Then he was brought, plunging and kicking like a wild colt, towards the bench. The judge bade him stand on his feet to hear his sentence.

This was easier said than done. It was done; and once more Mick Cahill stood on the floor, like the monster touching terra-firma. He shouted his war-cry, tumbled police and attorneys; the bar-whigs were not respected, and Judge Ball, fearing that this wild man of the bellows and anvil would invade the sanctity of the bench, fled to the judge's chamber. The police asked his lordship what was to be done, and were told to get him away as fast as they could. But Mick refused to budge until he got his hat. He then surveyed it with a glance of affection, put it jauntily on his head, and offered to fight the constable who removed it for a pint of whisky. The offer being politely declined, Mick swaggered out of court, and considered he had acted more meritoriously than otherwise.

In dispensing the hospitality which the judges extend to the Bar on circuit, I retain a very grateful recollection of Judge Ball. His polished manners, lively conversation, cultivated mind—enlarged by literature and travel—made him a most agreeable companion. He had lived in the very best society, both in

Dublin and London, and, kind in disposition, sought to diffuse happiness around him.

The judges who went the Munster Circuit during the summer of 1845 were CHIEF BARON BRADY and JUDGE BURTON. Few common-law judges gave greater satisfaction than Brady as Chief Baron. His clear common sense, his intuitive sagacity, which enabled him to arrive at the just conclusion, his knowledge of the rules of evidence, and the sound views he presented of each case, whether civil or criminal, when addressing juries, and his friendly manner to the Bar, made him extremely popular.

Of Judge Burton I have already spoken, when he was a member of the circuit; I have now to allude to his merits as a judge. He had one important and not universal qualification. He was the most patient judge I ever addressed. No amount of verbosity, no wearisome repetition, no tedious prolixity could elicit any reproof, or even a sympton of irritation from him. He listened unmoved, and while he sat, fixed as the pillar of the court, and as silent, he watched with the clearest intellect and the most legal mind the progress of the argument, or the hearing of the case. While Judge Perrin would ask some pertinent question which always served to recall the wandering counsel to the real point at issue, Judge Burton would hear the argument to the end, and then his decision came in the fullest and most judicial style. He did not content himself with merely giving his conclusions, he stated the reasons on which his decisions were based. He gave in minute detail the arguments or the objections on both sides, and the cases cited, distinguishing each,

and assigning it the proper place and value in the argument.

In private society, as when on the bench, I found Judge Burton simple and natural. He spoke, when last I dined with him, about Dickens's novels. "I delight in them," said the old judge—then nearly eighty years of age—"I never can bear to lay one of them out of my hand until I have read it through." This very admission would of itself denote how deeply the judge shared the sympathies of the gifted author, how truly he felt, with Dickens, the infirmities of his fellow-men. Often, when sitting on the bench, where other judges affect, if they do not feel, a stern Rhadamanthus-like stoicism, Judge Burton has been seen to display the common weakness of humanity.

This was the case when he tried the miscreants indicted for the fearful deed long remembered in Tipperary as "the burning of the Sheas"—one of the most atrocious crimes in the Irish calendar. Judge Burton wept as he declared "he never heard or read anything more truly pitiable than the fate of that unfortunate family." Mr. Shiel, who was engaged for the prisoners, alluded to this in the course of his impressive speeeh.

It fell to Judge Burton's lot to pronounce the sentence of the Court of Queen's Bench, after the jury found O'Connell and the other traversers guilty of the offences charged against them in 1844, and here, when pronouncing the sentence of the Court on his old friend and circuit companion, he was deeply moved.

It is a source of pleasure for me to relate that my presence in his company was the means of sparing the

venerable judge the expression of popular odium for having thus discharged a most unpleasant duty. At the close of the Cork Assizes in August, 1845, I was staying at my father's house in Fermoy, and chanced to be in the hotel when Judge Burton's carriage halted to have a relay of post-horses. He was then on his return to Dublin. As he rested for some time in one of the sitting-rooms of the hotel, I sat with him, and when the horses were harnessed I gave him my arm to assist him down the steep stairs. When we reached the hotel door, opening upon the square of Fermoy, I noticed a very considerable crowd of men, chiefly of the working class, assembled. They were much more than the usual number of idlers loitering around the hotel doorway. I saw my old friend safely ensconced in his carriage with his registrar; the postillion cracked his whip, round went the wheels, and away they drove. It was not until some time afterwards I was made aware that this crowd had collected for the express purpose of hooting Judge Burton for having sentenced O'Connell, but that when my fellow-townsmen saw him leaning upon my arm, they, out of compliment to me, refrained from any expression of disrespect. It appears that O'Connell did not exhibit the same equanimity towards the old judge as the people of Fermoy. He no doubt felt more acutely the sentence, though why he should have entertained any ill-feeling towards the judge I cannot conceive.

During the same assizes, when in Limerick, in 1845, the going judges, Chief Baron Brady and Judge Burton, accepted an invitation from the then Mayor of Limerick, W. J. Geary, M.D., to meet the Corporation

at dinner. It chanced that O'Connell, who arrived in Limerick with his *fidus Achates*, honest Tom Stale, on his way to Derrynane, was waited upon at his hotel by the mayor, who invited the great tribune also. O'Connell readily accepted the invitation, but on subsequently hearing the judges were to be present—one of them having so recently sentenced him—he intimated to the mayor it was impossible he could go to the dinner, and left the city. This caused quite a sensation. A meeting of the Corporation took place, and the following resolution was moved by James Kelly, M.P. for the city, seconded by Martin Honan, Esq. :—

"This Council having heard with surprise that the Liberator is under the impression that the invitation he received from the mayor on last Wednesday had emanated from this body, resolved that though on this, as on all other occasions, we would feel highly proud of the presence of the Liberator, yet we deem it right to communicate to him that if the mayor used the name of the Corporation, he did so without authority; and that the town clerk be instructed to apprise the Liberator that we feel too high a respect for him to allow him, for a moment, to remain under such an impression."

O'Connell, who was then staying at Derrynane, lost no time in writing to express his regret at being under the erroneous impression that the invitation was from the Corporation, and not from the mayor. He thanked the Corporation for their cordial kindness, and, in reference to a projected public dinner to himself, said, "Our sole object should be to advance the cause of

Repeal, quite independently of any compliment to any individual."

We are told the matter ended here, but it left some bitterness, which time, however, removed.[1]

[1] Lenehan's "History of Limerick," p. 505.

well as the law student, could not help being impressed with the peculiarly clear and terse manner in which the junior shaped his statement, giving the necessary information in the fewest words requisite for clearness, displaying the most thorough knowledge of what he wanted, what he knew the Court could grant, and what his client had a right to obtain. The judge leaned over the bench and inquired the name of the counsel, and I was perfectly convinced that the name of Rickard Deasy would soon be often shouted in the Library and echoed in the Hall. Few at the Bar identified themselves more closely with their clients. He fought their cases with an eagerness sometimes amusing to listen to, and it was hopeless for any Judge to attempt to stop Mr. Deasy so long as he had anything to say which he thought ought not to remain unsaid. I was in the Court of Chancery when the cause of Tangney *v.* Anderson was at hearing before the Lord Chancellor, Sir E. B. Sugden. I was personally interested that the plaintiff, for whom Mr. Deasy was retained as counsel, should not succeed. The mind of the Chancellor, I believed, was with us; and when Deasy rose to speak, his lordship intimated a very strong disinclination to hear him, but in a few firm but respectful words, Mr. Deasy, then at the Outer Bar, asserted his right to be heard, and the Chancellor had to sit quiet, while Mr. Deasy argued the case in a manner that made me tremble for the safety of my paternal acres. However, the decree soon settled the question most satisfactorily.

Mr. Deasy went the Munster Circuit for some years before he got into much practice; but when promotion

or death removed Pigot, Jackson, Collins, Cooper, O'Brien, and others from the path, Deasy, with J. D. FitzGerald, Joshua Clarke, Charles R. Barry, Edward Sullivan, Exham, and those who now worthily appear the leaders of the Munster Bar, came to the front. He got the rank of Queen's Counsel in 1849, and when the death of Judge Moore, in 1858, placed Serjeant O'Brien on the Bench, Mr. Deasy succeeded him as Serjeant-at-Law. When his friend and relative, Edmund Burke Roche, who had long represented the county of Cork in the House of Commons, was raised to the Irish peerage as Lord Fermoy, and therefore was disqualified from sitting for an Irish constituency in Parliament, Mr. Deasy was induced to become a candidate for the county of Cork. He was returned as colleague of the late Vincent Scully, Q.C.

As a member of Parliament he was greatly respected. He had that business habit and conciseness which is so satisfactory to the House, and considered a rare quality for an Irishman in general, and an Irish barrister in particular. Then he was a favourite, for the moderation of his views, his ability in meeting attack, and his fairness when encountering a political adversary. He did not long remain in the rank of serjeant. In 1859 he was appointed to the office of Solicitor-General, having as his colleague Mr. J. D. FitzGerald, the Attorney-General; and when the elevation of the latter to the Bench, in the following year, caused Mr. Deasy's promotion to the rank of first law officer for the Crown, it also necessitated his re-election to the House of Commons.

To his surprise, and pecuniary loss, he found himself

exposed to the worry and expense of a contest. Lord Campden was started for the representation of the county of Cork, but Mr. Deasy's friends were not dismayed, and succeeded in re-electing him by an overwhelming majority. He did not long remain subject to the fluctuation of official position. The death of Baron Greene, in 1861, caused his promotion, and, to the gratification of his friends, Mr. Deasy became one of the Barons of the Court of Exchequer, and, in 1877, was appointed Lord Justice of Appeal.

In October, 1869, the unexpected death of John Edward Walsh, a very eminent judge, whose literary labours illustrated Irish life in the pages of the "Dublin University Magazine,"[1] made room on the Bench of the Rolls Court for one of the leaders of the Munster Circuit—the Right Hon. Edward Sullivan. Mr. Walsh died in Paris, at the comparatively early age of fifty-two. He sat on the Bench, as Master of the Rolls, only three years, but during that time gave unmixed satisfaction, from his great ability as a lawyer, his patience and industry as a judge, and his courtesy as a gentleman. It was with universal acclaim the announcement was received that the Attorney-General, Mr. Sullivan, was appointed to succeed the lamented John Edward Walsh.

Mr. Sullivan is closely connected with the Munster Circuit. He is the fourth Master of the Rolls the Circuit has given to the Bench within the present century.[2] He was born at Mallow, in the county of

[1] "Ireland Sixty Years Ago."

[2] 1, Curran, leader of the Munster Circuit, Master of the Rolls from 1806 to 1814; 2, Sir William McMahon, Munster

Cork, in 1826, educated, as Curran was, at Midleton School in that county, and was so well versed in his examination course that he obtained first place at his entrance to Trinity College, Dublin, in 1839. His university career was eminently a distinguished one. He obtained a scholarship, the gold medal of the College Historical Society, where he was famed for oratory, and elected Auditor in 1845. Happily selecting the Bar for his future profession, he was called in Michaelmas Term, 1848, and, as was natural from his connexions, selected the Munster Circuit. Mr. Sullivan had a large circle of friends among that most valuable class to the young lawyer, the attorneys, and those of his native town soon brought forth the forensic talents of the young Mallow barrister.

On Circuit, as in the Four Courts, he was distinguished by his depth of learning, his readiness, and professional skill. Though small of stature, he had the voice of Stentor, and a copiousness of language which few equalled. His practice grew so rapidly that, after being ten years at the Bar, he received the silk gown of Queen's Counsel, and when, two years later, the promotion of the ill-fated Serjeant Berwick[3] to the Bench, as Judge of the Court of Bankruptcy, caused a vacancy among the serjeants, Edward Sullivan received the coif. In 1861 he became law adviser at the Castle. In 1865 he was appointed Solicitor-General for Ireland,

Circuit, Master of the Rolls, 1814 to 1837; 3, Sir Michael O'Loghlen, Bart., leader of the Munster Circuit, Master of the Rolls from 1837 to 1842; 4, Edward Sullivan, leader of the Munster Circuit, Master of the Rolls, 1869.

[3] Killed in the railway collision at Abergele.

and then had the honour of representing his native town of Mallow in the House of Commons, being preferred to the late Robert Longfield, Q.C. Here his power as an orator, backed by his knowledge as a lawyer, and his intimate acquaintance with Irish social questions, made him formidable in debate. He gained first the ear, then the heart, of the House, and, it is said, no one of the English members felt his worth more keenly, and appreciated his services more correctly, than the eminent statesman, William Ewart Gladstone. When that distinguished statesman assumed the reins of Government, in 1868, in the formation of the new Government the post of Attorney-General for Ireland fell to Mr. Sullivan. Mr. Gladstone availed himself of his aid to frame the Irish Church Bill, and while that measure was passing through the Commons found no abler ally to argue the clauses, to meet the objections, and press the views of the Government, while the bill was in committee. In fact, Mr. Gladstone and Mr. Sullivan were the members on whom the weight of debate chiefly fell. Of course his share in that measure to some degree alienated from him the affection of his co-religionists, but his frank, manly bearing, his cordial manners, and his straightforward reasons disarmed resentment. At the Bar, and on Circuit, he leaves only the remembrance of honourable conflict. In his present position, as the Master of the Rolls, the public derive great benefit from his acquaintance with the dictum, the law, and practice of the Court. Among his triumphs at the Bar, we must not forget his cross-examination of the defendant, then the Hon. Major Yelverton, when Mr. Sullivan was associated with the

late Chief Justice of the Queen's Bench in the *cause célèbre*, Thelwell *v.* Yelverton. During the Summer Circuit of 1874, the presiding judges were Baron Deasy and Judge Lawson. It was the latter judge's first appearance on the Munster Circuit in a judicial capacity, so a brief notice of him may be introduced here. He is a native of Munster, born in Waterford, and was a distinguished student in the Dublin University, where he obtained a scholarship in 1836, and a gold medal in 1837. He studied for the Bar, not merely skimming the surface of legal learning, but diving to the lowest depths, and drawing thence pearls of rare price. Well prepared for the practice of his arduous profession, he was called to the Irish Bar in 1840, and selected the Leinster Circuit. In 1841 he was elected successor to an eminent member of the Munster Circuit, Mr. Butt, as Whately Professor of Political Economy, by the Dublin University; and I remember, with his round, boyish, whiskerless face, looked a very juvenile Professor indeed. During the meeting of the British Association at Cork, in 1843, he and I became acquainted, and during our tour along the beautiful river Blackwater, in Munster—visited by the members of the British Association in consequence of my paper, read before the statistical section, which shortly afterwards expanded into my "Historical and Picturesque Guide to the Blackwater, in Munster"—Mr. Lawson shared with me the hospitalities of Sir Richard Musgrave, Bart., who feasted us the first day; the Earl of Mount Cashel, who received us at Moore Park the second day; and my father, who entertained the party at his official residence, New

Barrack House, Fermoy, the third day. My sisters had invited many of the officers of the Fermoy garrison and their wives to meet the *savants*, and to one, who asked my youngest sister what the very young gentleman, Mr. Lawson, was, my sister naively said, "Oh, he's the Professor of Economy." Professor Lawson rapidly got large practice at the Bar, being equally well versed in common law and equity. His position in the Four Courts and on Circuit would have entitled him to the rank of silk gown, but he abstained from the position until he felt his place on his Circuit rendered his doing so necessary. He therefore did not become a Queen's Counsel until the year 1857. He addressed the electors of the University of Dublin as a candidate for the representation in 1858. But as he professed Whig principles, the electors were not induced to relinquish either of their Conservative representatives in his favour, and accordingly re-elected Messrs. Whiteside and Lefroy. On the appointment of Serjeant O'Hagan to the office of Solicitor-General, in 1860, the vacant coif was conferred on Mr. Lawson, and when Mr. O'Hagan became Attorney-General, in the following year, Serjeant Lawson became his colleague as a law officer of the Crown. He followed closely on the footsteps of Mr. O'Hagan, and on the elevation of that gentleman to the Bench of the Common Pleas, in 1865, Mr. Lawson succeeded him as Attorney-General for Ireland. It is always important for the Government to have their chief law officer in the House of Commons, and, in the general election of 1865, the Attorney-General contested the borough of Portarlington with Captain Damer, and with success.

His parliamentary career was much interrupted by his time being much engrossed by the Fenian revolt and the State prosecutions, which prevented his absence from the Irish Courts. He ceased to hold office when the Whigs were defeated, and also lost his seat for Portarlington; but on the return of the Whigs to office, and when the elevation of Judge O'Hagan to the custody of the Irish Great Seal left a judgeship on the Bench of the Common Pleas vacant, Mr. Lawson, as usual, followed O'Hagan, and became a judge of the Common Pleas.

On the Bench, as at the Bar, his legal knowledge, his clear, logical mind, his familiarity with business, and his friendly, social manners, free from any tinge of hauteur or superiority, made him extremely popular; and though extreme politicians doubt in the reality of his Whig pretensions, as he makes all political feelings give place to the strict discharge of his judicial duties, we have no right to question a matter of this sort.

CHAPTER XXVIII.

Attempts to assassinate a Land Agent.—Galtee Castle.—Increase of Rents.—The Agent fired at.—An Iron Barrack.—The Ambuscade.—The Coachman shot.—Activity of the Policemen.—Arrest of Thomas Crowe.—His Trial.—Conviction and Sentence.—Compensation awarded.—The Agent removed.—Spring Circuit, 1877.—Mr. James Robinson, Q.C.—The Kilfinan Case.—The Yougal Ferry Case.

CROWNING the summit of a gentle hill in Munster, encompassed by the peaks, passes, and precipices of the Galtee mountains, stand the picturesque towers of Galtee Castle. Here, not long since, ruled the puissant Earls of Kingston. Here, at a remoter time, FitzGibbon, commonly called the White Knight, kept his state. He was chief of a portion of the Desmond territory; and here the said White Knight, as is told in Chapter II., captured the Earl of Desmond, who sought shelter in a cave called Slievegort, and the White Knight sent him a prisoner to Cork, for which service the Cork historian [1] states he was rewarded with the sum of 1000*l.* But the White Knight and his descendants, the Earls of Kingston, no longer rule over this wild and picturesque territory. The profuse hospitality of the Kingston family, the enormous expense of contested elections in

[1] Smith's "History of Cork," Vol. i. p. 79.

which they took part, the desire to outrival the large-acred peers of England, so mortgaged the estates of the Earls of Kingston, that when acting as counsel in a creditor's suit to foreclose a mortgage, I ascertained the charges on the vast property of the family was between three and four hundred thousand pounds. To this incumbrance constant litigation added very considerably. In 1849, the 5th Earl, James, told me the litigation concerning his grandfather's will (he died 17th April, 1799) was not then over, and therefore it can hardly cause surprise to learn that when the Landed Estates Court proved an expeditious mode for diminishing the area of incumbered Irish estates, the property of the Earls of Kingston, in the counties of Cork, Limerick, and Tipperary, estimated, at one time, at something like 400,000 acres, was speedily reduced to more concise dimensions.

It happened that a very large slice of this heavily mortgaged property, lying along the western sides of the Galtees from Kilbenny, in the county of Limerick, to Araglin, in the county of Cork, was purchased by an English capitalist, who realized a considerable fortune as a manufacturer at Staleybridge, which town he represented in the House of Commons. Although the picturesque seat of Galtee Castle might have formed an attraction for a lover of scenery, it seems not to have tempted the purchaser to make it his residence. Possibly he was unaware that this district is immortalized by Edmund Spenser the poet, in the legend of Constancie.[2] That here the deities assembled, and

[2] "Faerie Queene," Canto VI.

that the Brackbawn, the rock-channelled stream which sweeps, with the dash and foam of a torrent, through the glen of the Castle, was the favourite bath of Diana. The source of this stream is thus as faithfully as poetically described by Spenser:—

"For first she springs out of two marble rocks,
On which a grove of oak high-mounted grows,
That as a garland seems to deck the locks
Of some fayre bride brought forth with pompous showes
Out of her bower, that many flowers strewn,
So through the flowery dales she tumbling downe,
Through many woods and shady coverts flowes,
That on each side her silver channel crown,
Till to the plain she comes, whose vallies she doth drown.

In her sweet stream Diana used oft,
After her sweatie chase and toilsome play
To bathe herself; and often on the soft
And downy grass her dainty limbs to lay
In covert shades, where none behold her may,
For much she hated sight of living eye."

Perhaps the proximity of the Castle to the county of Tipperary, so distinguished some years ago by numerous agrarian crimes, caused the new proprietor of Galtee Castle to remain an absentee in England. Whatever the cause, he did not live in the Castle, but allowed his agent to do so. This gentleman was the representative of the landlord—his agent in collecting his rents, and as he soon became highly unpopular, the target for the assassin's weapons.

It is sad to write this. It is sad to think that, at this day, with all our social progress, with all our efforts in civilization, the old war between landlord and

tenant is as bitter, if not as extensive as it was when Cromwell's soldiers gave to the transplanted Celts the option of "Hell or Connaught" in exchange for the green fields—the pleasant homes, and loved localities where they were born, and hoped to die. But it is not my province to write upon the land tenure of Ireland, save so far as it engenders crimes, which, alas, stain the course of the Munster Circuit.

It appears that the purchaser of this part of the Earl of Kingston estates, which we have just described, was not satisfied with the rental he had acquired. Like Oliver Twist, he "wanted more," and finding the tenants unprotected by lease, had the lands revalued, and resolved to raise the rents. I need hardly say the land upon the slopes of the Galtee mountains is far from productive; lying in a wild and rocky region remote from market towns, or means of extensive traffic, it did not afford much subsistence to the tenants after paying rent, rates, and taxes. The notion of being called upon to pay a higher rent than that which was often scraped together with difficulty, caused a wail of sorrow throughout the district. Those whose ears are ever open to the poor man's sorrows, whose hearts are ever ready to sympathize in his affliction, heard the cry, and laboured to avert the coming blow. The priest of the people interfered, and tried to moderate demands they felt to be unreasonable. The influence of the Catholic clergy had not the desired effect, and accordingly the tenants had only the sad alternative of yielding to the pressure, or leaving the land.

In a country like Ireland, devoid of manufactures,

having little or no remunerative mines at work, nothing in short for the people to look to for employment, save agriculture, there is practically no option for the bulk of the people. If the man does not work on the land, he starves, or adds to the rates by resorting to the poor-house. Though the farmers on the Galtee property regarded the increased rents as a step to beggary, many of them agreed to terms they were powerless to resist, and the increased rent was promised, and, for the most part, paid. One of the tenants, a man named Patrick Ryan, who could not, or would not pay, was evicted. He and his family were cast upon the roadside, and, alas, the mode of revenge, so common in the county of Tipperary, was taken.

On a fine spring evening the land agent was watching the setting sun, as it cast a parting beam over the lovely landscape around Galtee Castle. Birds were piping their sweet notes in the shrubbery, and the buds of the evergreens were beginning to clothe the boughs with half-opened leaves. Had he been familiar with the Faerie Queene, he would probably have looked into the Brackbawn, as it pursued its limpid course into the valley below, for a glimpse of Diana, when the light of the moon, sacred to that goddess, cast a soft effulgence on the scene. Soon he had other thoughts to occupy him—the evicted tenant lay in ambush with the weapon of death in his hand. The intended victim, unconscious of danger, approached the assassin's hiding-place. Suddenly the holy hush of the evening hour was broken by the discharge of a gun. The agent was fired at from the shrubbery. The weapon was loaded with slugs, which tore his clothes, and a

few pellets struck him, but either the charge of powder was too weak, or the distance he stood from the assassin too far, for he providentially escaped any serious injury.

Aware of the danger in which he stood, the agent carried a revolver, and now in his turn he fired in the direction whence his assailant had aimed at himself. He missed the man, and saw Ryan crossing a field, which caused the natural belief he was the person who committed the outrage. For several months the police of the district kept at a hot pursuit after Ryan. It is said his escapes were many, that when the police were entering by the door, he was leaping out the window, until at length he contrived to get away from Ireland in a fishing-smack from Kinsale.

It was stated that this man's wife and children, deprived of his support, when driven from their little farm, threw up a rude shanty against a ditch on the lands. This was not allowed to remain. The agent summoned the wretched occupants before the magistrates at petty sessions at Galbally, and the wretched woman and her children were obliged to leave the district. Fearing the consequences of his position the agent naturally desired such protection as would preserve him from personal danger. He bought an iron house for occupation by policemen, which he placed close to his residence at Galtee Castle, and herein was stationed four constables, under charge of Constable Nugent. The expense of supporting these constables falling upon the people of the district, formed a heavy tax upon the already impoverished tenants. Feeling how precarious was his tenure of existence, the ob-

noxious agent never ventured forth unarmed or unattended. He usually was escorted by two policemen, armed with their rifles, while he, too, carried fire-arms.

On Thursday, the 30th of March, 1876, shortly after the gala day, the agent went into Mitchelstown, a considerable country town in the county of Cork, about five miles distant from his dwelling, where he had an office for transacting the business of the estate. Here he was occupied in receiving the rents, and many of the tenants were punctual, and paid their rents, and, obtaining receipts, betook themselves home.

After closing the office, about five o'clock, the agent got on his outside jaunting-car to drive back to Galtee Castle. On one side sat the agent and Constable Nugent; on the other another constable, and the steward and bailiff. The driver of the car was named John Hyland. The whole party were well armed. The road from Mitchelstown towards Galtee Castle is a level one for the most part, with open fields, and bordered by fences of moderate size. Farm-houses lie scattered over the country and by the roadside. At Kilbenny, about three miles from Mitchelstown, is a police station and small village. Nearer to Mitchelstown, at a place called Garryleigh, is a thick hedge close to the road, and the farmhouse and haggard of a farmer named O'Brien. Cocks of hay and outbuildings are near at hand; and on the opposite side of the road lies a ditch, with a few scattered bushes. Behind the hedge two men lay in wait for the agent, one having a double-barrelled fowling-piece, the other a single-barrelled gun. At the back of the ditch, on the opposite side of the road, crouched a third man,

armed with a blunderbuss and a heavy cavalry pistol. As the outside car drove rapidly on its way, no sooner had it reached the fatal spot where the assassins lurked than a weapon was discharged. A shower of shot and slugs rattled upon the vehicle. Had the man with the blunderbuss aimed low, both the agent and Constable Nugent must have received the contents, for they heard the stream of missiles pass over their heads, and, unhappily, many of them lodged in the body of the hapless coachman, who fell from his seat shot through the heart. The agent did not pass unhurt. Five of the slugs hit him about the legs, arms, and face. The steward's ankle was grazed, Constable Nugent had his tunic torn by a brace of slugs, and some struck his shoulder and knee; but, luckily, these did not impede his activity. When the agent said, "Serjeant, there's the man who fired the shot," Nugent looked steadily in the direction, and closed with the man who fired. Another of the assassins was covered by the sub-constable, who fired at him, and the man stumbled and dropped his gun; but instantly stooped down, picked it up, and escaped. At the same time, the constable saw a man come from O'Brien's haggard with his face blackened. This man fired twice at the sub-constable, but missed him. He escaped through a gap in the corner of the haggard. He, the sub-constable, then helped Constable Nugent to handcuff the prisoner. The shot fired by the prisoner had killed the driver of the car. When this man was shot, he fell back on the car, and subsequently dropped upon the road. The agent and his steward drove on homeward. Passing by Kilbenny police

barrack, they gave the alarm to the force stationed there, who were soon on the fatal spot. The prisoner was brought to the barrack at Kilbenny. He proved to be a man named Thomas Crowe, about sixty years of age, and unmarried. He was a native of Tipperary. The body of John Hyland was brought into Mitchelstown, and underwent a *post mortem* examination.

At the ensuing Cork Summer Assizes of 1876, Thomas Crowe was tried before Judge Lawson for the murder of John Hyland. The case for the Crown was stated by Serjeant Sir Colman O'Loghlen, and the facts proved by Mr. Bridges, Constable Nugent, and Subconstable Jones, as I have already detailed them. Doctors O'Neill and M'Craith, who had examined the body of Hyland, were called by the Crown. Dr. M'Craith, who was examined by Mr. Green, Q.C., deposed that on the night of the murder he examined Hyland's body. He found a bullet wound over the heart, and a hole through his clothes on the left side. He passed his finger through this wound, and found a bullet inside. The pellet had passed through the heart, and lodged in the backbone. The resident magistrate, Mr. Eaton, proved he took the information of the agent, which he read over to the prisoner. He cautioned the prisoner before he brought him to the presence of the agent; and when he read the information to him, asked him if he wished to cross-examine the agent, and that anything he stated would be taken down. The prisoner said, "I don't want to ask the agent any question; I hear what he says, and I can't contradict him." The prisoner was zealously defended by two barristers—Messrs. Blackhall and

Lawrence, instructed by Mr. J. T. O'Connell. They sought to prove that the prisoner was not the guilty man; that it was incredible to suppose a man who never saw the land agent before, who entertained no ill-feeling against him, a man advanced in life, without any provocation, went and committed that atrocious murder. Both counsel made able addresses to the jury, commenting upon the very unreliable nature of the evidence produced against the prisoner, and the entire want of motive for the crime. The absence of the bailiff was strongly observed upon; also that one of the police swore he saw a man with his face blackened. Counsel urged it was most likely any one associated in this fearful outrage would be disguised; whereas the prisoner wore nothing of the kind. Mr. Murphy, Q.C., replied on the part of the Crown. He went very carefully through the evidence, showing how clearly the guilt of the prisoner was established. In reference to the observations made by the counsel for the prisoner upon the absence of O'Loghlen, the bailiff, Mr. Murphy said, "Very naturally, this man O'Loghlen was anxious to provide for his own safety. It did not appear he saw anything that was going on in the field, and it did appear he got quickly out of the way." Judge Lawson having summed up with his usual clearness and ability, the jury retired at seven o'clock, and about eight o'clock brought in their verdict of "Guilty."

Mr. Bull, clerk of the peace, demanded, in the usual form, "if the prisoner had anything to say why sentence of death and execution should not be passed upon him." The prisoner had nothing to urge, whereupon

Judge Lawson said, "You, Thomas Crowe, have been found guilty, on evidence of a very clear and convincing character, of having committed the crime of which you were convicted. In fact, you were taken red-handed in the very act. And although I believe that the victim that fell by the fire of your blunderbuss was not the person whom you meant to put to death, you are found guilty in having taken the life of an innocent man, your own life must necessarily be forfeited for the crime. You must have been brought there by others or gone there to commit that deed. I can hold out no hope of mercy to you. Unfortunately the crime of murder or assassination has been much too common in this country, and, therefore, my duty is now to pass sentence of death upon you. His lordship having assumed the black cap, sentenced Crowe to be hanged on the 25th August, and buried within the precincts of the gaol. This sentence was carried into effect.

In order to induce the peasantry to discourage the commission of such crimes, the Legislature passed an Act, empowering parties injured, or the representatives of those who are killed, to apply to the Grand Jury of the county when crimes are committed, who are at liberty to award due compensation for such offences, which is levied off the district. Accordingly notice having been duly served for such application in this instance, when the verdict was obtained, the claims were heard by the Grand Jury for the county of Cork.

Mr. Heron, Q.C., and Mr. Peter O'Brian appeared for the injured parties. These were the Agent, Mary

Hyland, widow of the murdered man, Constable Nugent, and O'Loghlen, the bailiff. Messrs. Murphy, Q.C., O'Brien, Q.C., O'Riordan, and Fitzgerald were counsel for the tenantry of the district, and Mr. John Roche counsel for the ratepayers of Mitchelstown. The case was very fully discussed and the demands reduced to about half what was originally sought.

In the course of his address to the Grand Jury Mr. Heron read several threatening letters showing the *animus* against the agent. I can only find room for one, which may be taken as a sample of the rest. It was posted in Tipperary on the 29th April, 1876, one month after the last attempt at his assassination :—

"*Leave,* LEAVE, LEAVE, or if you don't, we'll face you and your body-guard in the face of God and man, if it was in the chambers of Galtee Castle in the noonday, and will not leave until your body will be cold and your soul in hell. Hyland got the same warning, and ridiculed it. Let you ridicule this if you like, it is the last, and if rejected will prove fatal,

"YOUR ATTEMPTED ASSASSIN."

In the course of his examination the agent swore there were 527 tenants on the estate. The gross rental was 5550*l.* About a dozen or a dozen and a half held by lease. The rent was raised on 450, about 130 were served with notice to quit. These were on the property in Limerick, Tipperary, and Billarue.

The Grand Jury awarded as compensation to the agent 1000*l.*; to the widow of John Hyland, 700*l.*; Constable Nugent, 100*l.*; Patrick O'Loghlen, 10*l.*

total, 1810*l.*, the amount to be paid off the parish of Brigown in three instalments.

The Judges of Assize on the Spring Circuit of 1877 were the late Right Hon. Judge Keogh and James Robinson, Q.C., selected for Circuit owing to the illness of Chief Baron Palles. Of Mr. Robinson's qualifications as an able lawyer I am competent to speak. In his student days we were both members of the Law Student's Debating Society, and I yet preserve several notes of his arguments which show how laboriously and carefully he prepared himself for discussing the legal questions at our evening meetings. He graduated as Master of Arts in the University of Dublin, and was called to the Bar in Michaelmas Term, 1836. He selected the Connaught Circuit and soon his legal arguments and steady application to his profession met their reward. He had very considerable practice, and in 1852 was called to the Inner Bar as Queen's Counsel. He became Chairman of Quarter Sessions for the county of Cavan, and in the year 1870 was elected a Bencher of the King's Inns.

The Spring Circuit had somewhat more than the average amount of criminal business, and among the cases tried were several very revolting. At Limerick an old couple, man and wife, were indicted for the murder of their daughter-in-law at Kilfinan. It appeared on the trial that an ill-feeling subsisted on the part of the old man towards his daughter-in-law. He was heard to say "she was of a bad breed, and thought she was not sufficiently kind to him in regard to his food." One day, when her husband went to the bog for turf, leaving his wife in her usual good health,

an alarm was given to the police that the woman was dead. On the police going to the cabin they found it true. She lay on the floor of the cabin with several severe wounds on her head, which the old man said "were owing to the old chimney having blown down and fallen on her." There was no wind to cause the fall, and the chimney could not have crushed the woman where she lay, so the old couple were suspected. Blood was found on the old man's clothes, and some grey hairs clutched in the deceased woman's hand corresponded with those of her father-in-law. The man and his wife were tried at Limerick before Mr. Robinson. He directed the woman to be acquitted, and the jury found the old man guilty of manslaughter. He received a heavy sentence. At Cork a man named Cremen, lessee of the tolls of Youghal ferry, and a boatman named Connor were tried for manslaughter. The case was a very sad one. On the 1st October, 1876, the ferry-boat plying between the ferry slip at Youghal and the opposite shore had a very large number of passengers, no less than twenty-four persons, chiefly of the farming and dealing class, who had gone to Youghal from Ardmore and the neighbourhood, and were returning with their marketing. These poor people all crowded into the boat. The day was most inclement; rain fell in heavy showers; wind blew in fitful gusts, and a heavy sea rolled from the harbour's mouth. The boat was old and leaky, so that several of the passengers found their feet soaked when they took their seats. At length, having their full freight of passengers, the boatmen pushed off. After leaving the shelter of the quay several heavy seas

struck the old boat, and, alarmed the passengers, who prayed the boatmen to put back. Ere they could comply the boat filled, and no less than sixteen of the ill-fated passengers were drowned. Inquests were held on many of the bodies, and the lessee of the ferry and a boatman were sent to the Cork Assizes. They were tried for manslaughter before Mr. Robinson, Q.C. The evidence was very clear, and the jury found them both guilty. In passing a severe sentence the judge adverted to the danger of using a boat in so dilapidated a state as that which caused this lamentable accident, and considered the case was one which called for a severe sentence. He accordingly pronounced one.

There was such an amount of criminal business for the county of Kerry as to require the assizes to be adjourned, and when the Cork dock was cleared the judges had to return to Tralee.

CHAPTER XXIX.

The Recreations of the Munster Bar.—Father Lyne.—Purcell O'Gorman.—John Anster, LL.D.—Judge Talfourd.—Literary Members of the Munster Bar.—The Blarney Banquet.—Theatricals in Limerick.—The present condition of the Munster Bar.

THE recreations of the Munster Bar is the subject of my last chapter of this eventful history. What social gatherings, pleasant memories of joyous evenings—alas! too swiftly passed—do not these words recall. For I speak only of the past, the present is a sealed book to me, and therefore I refer only to days that are gone, when I went Circuit. Then our festive board was usually presided over by the mirth-compelling Father Lyne, or the ever genial, kindly presence of George Bennett. Con Lyne, as he was popularly called, looked the very embodiment of social mirth, and his disposition did not belie his looks. He went Circuit solely for the sake of the society it afforded him, and he contributed in no small degree to keep alive the perpetual stream of fun and merriment which kept us amused after the routine of our court business was over. To see him at the head of the long dinner-table—his purple-hued face reflecting as it were the colour of the wine circulating before him—his coat thrown back, his little rotund figure seated in his

chair, he reminded me of the jolly old Father Silenus of the Greeks. He was the best post-prandial orator I ever heard. In truth it was his forte. Grattan said of Flood, "On a small question he was miserable. Give him a distaff, and, like Hercules, he made sad work of it; but give him a thunderbolt, and he had the arm of a Jupiter." Now Con Lyne was the reverse of Flood. What he would have done with a great question I cannot say, for I had no opportunity of hearing him, but on small matters he was admirable. In proposing toasts, such as the health of our guests, few equalled, none excelled him. He sang, too, amatory and convivial songs, of women and wine; the airs of the Beggar's Opera were his favourite melodies. A stranger hearing him called Con, inquired of a brother barrister, "Is he Con of the Hundred Battles?"[1] "No," was the response, "He is Con of the Hundred Bottles."

After dinner, at the Bar Mess, music, recitations, lively jest and witty repartee enlivened our gatherings. I violate no privacy—I promise to hurt no feelings, by disclosing how we passed our evenings. We usually had a piano in our dining-room at Cork, and many of our members were accomplished performers. Singing, with solos, duets, or glees, went with the notes of the instrument, and the solos of Mr. John Deane, son of the eminent Cork architect, the late Sir Thomas Deane, the duets of the distinguished and able Judge of the Admiralty, Mr. John Fitzhenry Townshend, and Mr. Garde; the piano-playing of Mr. Richard Bourke, and

[1] A famous Irish warrior was so designated.

others, was exceedingly good. All the members—Mr. M. J. Barry, Standish Thomas O'Grady, D. Griott—all who could add to the harmony of our society, were called on to do so, and cheerfully complied.

On one occasion, Mr. Nicholas Purcell O'Gorman, who had long been secretary to the Catholic Association, and associated with O'Connell in all his efforts to gain Catholic emancipation, being asked to sing, stoutly declared "he knew nothing of music of any sort."

"I think you are forgetting, Purcell," remarked a witty barrister at the table.

"Forgetting what?"

"That you can play sometimes."

"Put him on his trial," said Father Lyne.

Thereupon the Bar Mess prosecutor for the Circuit impanelled a jury of our witty Father, under the name of Con Lyne, Con Sign, Con Fine, Con Dign, &c., to try whether the prisoner at the bar ever played upon any instrument whatever.

The witness deposed "that on a stated day, in the hall of the Catholic Association in Dublin, he saw and heard the prisoner publicly playing *second fiddle to Daniel O'Connell.*"

This caused much amusement.

Finding rhymes for difficult words sometimes exercised the talent of the barristers.

Porringer was a crust, until thus hit off:—

"Here's a rhyme for porringer, here's a rhyme for porringer,
A king he had a daughter fair, and gave the Prince of Orange her."

The word Timbuctoo elicited the following:—

"If I were a cassowary
On the plains of Timbuctoo,
I'd eat up a missionary,
Togs and gown and hymn-book to."

This was deemed rather irreverent towards the pious missionary, and the legal poets tried again.

"I went a hunting on the plains—
The plains of Timbuctoo;
I shot a buck for all my pains,
And he was a slim buck too."

This passed muster with the Munster Bar.

Our most distinguished poet was John Anster, LL.D., a native of Charleville, in the county of Cork. He was a man of great and varied erudition. He obtained a scholarship in the University of Dublin, and his prize poem, "On the Death of the Princess Charlotte," placed him in the front rank of modern poets. He was perhaps more famed in literary circles than at the Bar, as the translator of Goethe's "Faust," and the author of "Xeniola," and other poems. He was the readiest at finding rhymes. He alone found one for Apocalypse. It was not very flattering to his own countenance, which was comely and expressive of high talent:—

"Lo, Anster was there, with his pale face and chalky lips,
Like to the beast that's found in the Apocalypse."

Anster did not continue long on the Circuit. He

never was fitted for court practice, and I suspect he devoted much more of his time to poetry than law. On being appointed Registrar of the Admiralty Court, whereof a very prosy lawyer, the late Sir Henry Meredyth, was the judge, Mr. F. W. Conway, proprietor of the *Dublin Evening Post*, meeting Anster, congratulated him on obtaining a snug sinecure.

"What do you mean by a sinecure?" asked Anster,

"A place with little or nothing to do."

"Then you are greatly mistaken if you think I am so fortunate," replied the poet.

"What have you to do?" asked Conway, in much surprise, for it was notorious the business was then next to nothing.

"Listen to the judgments of Sir Henry Meredyth," said Anster, and he added the couplet:—

> If you want to be bored, and bored to the very death,
> Go list to a speech from Sir Henry Meredyth."

Anster once—I believe only once—defended a prisoner. A man named Kelly had incurred the enmity of the Whiteboys, and his doom was sealed. He was waylaid, and the contents of a blunderbuss stretched him lifeless on the highway. Some clue was obtained, which led to the arrest of the murderer, and he stood in the dock in Cork, indicted for the capital crime.

Being undefended, the Judge assigned John Anster, LL.D., to give the prisoner the benefit of his legal skill. It was a trying ordeal for poor Anster, who had little experience in common—less in criminal—law; but by some fatality, a material flaw in the indictment

to which the prisoner pleaded was whispered by some veteran friend, and Anster, to the surprise of every one in general and himself in particular, made the point, obtained the ruling in his favour, and the prisoner was acquitted.

Anster sat up late that night in his lodgings in Old George Street, Cork. All the inmates of the house save himself were in bed, when a rude knock startled the poet-barrister. It was unattended to, and, when repeated, Anster went to the door. He heard his name pronounced, and, on opening the door, saw the Whiteboy whose life he saved by making the point which upset the indictment.

"Oh, Kelly, is that you?" he said, naming not the living, but the murdered man.

"I'm not Kelly, plaze your honour," returned the client; "'tis meself is the boy that shot him."

This hardy avowal caused Anster to shut the door very speedily in the face of his first and last client from the dock.

That poetry and legal ability are by no means incompatible was proved by a very eminent member of the English Bar and Bench, who visited Cork during the assizes, and dined at the Bar Mess—the late Judge Talfourd. To those who had the happiness of knowing that eminent judge, I need hardly say how delighted the Munster Bar were when he gave us the pleasure of his company. He was a most accomplished man, and no one enjoyed the society of intellectual minds more.

As Judge Talfourd's career affords an excellent proof how great literary fame may be combined with the practice of the Bar, I subjoin a brief account of this

accomplished member of the English Bench. In his early days Thomas Noon Talfourd was connected with the London Press, and, I believe, a reporter for the *Times*. He prepared himself carefully for the legal profession, and, when called to the Bar, soon obtained practice. He displayed a masterly knowledge of the principles of law, which so gratified those who sought his services, he was soon recognized as a safe junior, and, though his love of literature caused some old heads to shake, judges held his law was not rendered unsound by his fame as a poet. His ability at the Bar increased his practice every year, and his reputation as an accomplished orator and successful dramatist kept pace with his reputation as an accurate lawyer. He obtained a seat in the House of Commons, and his speeches in Parliament on the law of copyright and his drama of "Ion" were familiar to the members of the Munster Bar. We hailed with sincere pleasure the visit of one whose legal, parliamentary, and literary fame shed such lustre upon our profession.

Besides Dr. Anster, other members of the Munster Circuit gained distinction in various fields of literature. Dr. Kenealy, a native of the county Cork, and for a time on the Munster Circuit, published a work called "Brallaghan, or the Deipnosophists," displaying much classical ability. His translatiou of the poem on Castle Hyde into Greek verse is admirable. He did not obtain practice on the circuit, and soon left the Irish for the English Bar.

Michael Joseph Barry, also a native of Cork, was favourably known as a writer by his excellent poems in the magazines. His "Kisshogue Papers," composed

in the style of the "Ingoldsby Legends," are little, if at all, inferior to those humorous tales. In conjunction with the late Judge Keogh, Mr. Barry compiled a work on "Chancery Practice," which displayed much research.

Another barrister of the same name, the late Mr. Michael Barry, the Professor of Law in the Cork College, I was told occasionally obtained briefs intended for the writer on "Chancery Practice," and also invitations to parties meant for the author of the lively "Kisshogue Papers." The frequency of these mistakes elicited the following *jeu d'esprit* from the injured poet:—

> "No wonder my namesake my anger provokes,
> For he's *feed* for my law, and he's *fed* for my jokes."

Mr. Michael Joseph Barry was deservedly esteemed by Charles Lever, and, when that popular writer edited the *Dublin University Magazine,* ranked Mr. Barry as one of the most esteemed contributors.

Mr. Heron, Q.C., now a leader of the Circuit, has published an interesting "History of the University of Dublin," and some legal works relating to the Irish Land Laws, which display great knowledge of his subject. The late John F. Maguire, M.P., occasionally joined the Bar Mess. He too was a varied and able writer, as his "Irish in America," "The Life of Father Mathew," and other works prove. Isaac Butt, M.P., Q.C., also contributed largely to enrich the pages of the *Dublin University Magazine* by his contributions, chiefly political. He has written a novel, "The Pass

of Barnesmore," a work on Italy, and several essays on various subjects.

While on Circuit, our kind friends in Cork were profuse in their hospitality, and one of the banquets—which my memory recalls from its singularity—was given in true Celtic style by the late venerable Father Matt Horgan, parish priest of Blarney.

It was a bright summer day during the Summer Assizes when, accompanied by Frank Walsh, John Francis Maguire, and other Cork notabilities, I drove to Father Matt's dinner-party. He received us in the banquetting-hall—a large barn. In the centre of this barn a long table literally groaned beneath such a profusion of solids and fluids as I never beheld placed upon a table before or since. Here sirloins of beef jostled legs of mutton, rows of chickens alternated with hams and tongues, while whisky by the gallons and stacks of sugar by the loaf showed our worthy host resolved if any one went away hungry or thirsty the fault was his own.

Father Matt himself was the very type of a hospitable Irishman. Tall and strong-limbed, though his silver locks showed the frosts of Time had touched his head, his words of welcome soon satisfied me they failed to reach his heart. We sat to our plentiful repast, and the appetite caused by the drive, and the air, and the good-fellowship, soon made considerable inroads upon the viands; while, after dinner, the flowing bowl went its circling round. Father Matt was a man of considerable antiquarian research, and the round tower at Blarney owed its erection to him.

Another pleasure we derived was from the exercise

of hospitality. When a member of one of the other circuits in Ireland or England, or a former member of our own, happened to be in the assize town at the same time with us, he was usually invited to dine with us at the Bar Mess. The sight of old, once familiar, faces was sure to awaken the memories of the past, and we sought to entertain our former companions with our best cheer.

Our brethren who attended as special counsel were always honorary members of our mess, and many pleasant recollections are derived from some of those eminent members of other circuits amongst us.

The Bar always patronize the drama, and both in Limerick and Cork the theatrical managers usually succeed in collecting a good company, and there is sure to be a performance under the special patronage of the members of the Bar. At Limerick a theatre was built in Cornwallis Street, in 1770, which was a celebrated one in its day. It afforded the citizens the opportunity of witnessing the performances of the brightest stars of the theatrical firmament. Here David Garrick, Mossop, Barry, Ryder, Mrs. Siddons, Mr. Kean, Mr. Kemble, Macklin, George Frederick Cooke, Miss Farren, &c., delighted the spectators by the representation of the works of our best dramatists.

But the playgoing citizens of Limerick were not solely indebted to foreign aid to support the stage. A very excellent corps of amateurs performed with decided success. One of them was well known to us in his own distinguished and respected character, the late Sir Mathew Barrington.[2] Others, whose taste and

[2] He died in Dublin, 1st April, 1861.

talent were often displayed upon the boards in support of local charities, were Messrs. John M'Auliff, Pierce Brett, John Gubbins, George Hogan, Andrew Tracy, and William Glover.

We are told that from this old theatre one night the celebrated comedian, George Frederick Cooke, staggered forth intoxicated. He had taken more whisky than his brain could carry, and, arrayed in the dress in which he performed Petruchio in the "Taming of the Shrew," set forth to return to his hotel. Missing his way, he was attracted by a light in a window, and entered a poor, humble house, in one of the narrow lanes, where the inmates were waking a corpse. A group of aged crones were keening over the deceased, when Cooke suddenly entered. He scared the assemblage by his strange appearance, and, advancing towards the bed on which the body lay, he addressed the mourners with—

"How now, ye secret, black, and midnight hags, what is't ye do?"

We can readily believe the comedy in which he lately played was very nearly followed by a tragedy, but he managed to get to his hotel.

Among the notable residents or natives of Limerick, who distinguished themselves in the theatrical profession, were Andrew Cherry and Miss Catherine Hayes. Cherry composed "The Soldier's Daughter" and "The Travellers," to which Dibdin contributed the songs. He was originally a printer, and employed in the printing office of the *Limerick Journal* newspaper. The vicissitudes of an actor's life were experienced by him; at one time on the verge of starvation as a

strolling player, then for several years one of the leading comedians at Covent Garden. He must have been a witty man, judging from the following anecdote. Once, when asked to form part of a company by a manager who had not fulfilled a former engagement, he replied,—

"SIR,—You have bitten me once, and I am resolved you shall not make two bites of

"A. CHERRY."

Edmund Kean appears to have been unpopular in Limerick. The Assembly Rooms, on Charlotte Quay, opened on September 13th, 1824, with "Richard III.," Kean playing Richard. He played for five nights to empty houses, and though engaged for twelve nights, threw up his engagement in disgust. On a subsequent visit he was better supported, and played alternately tragedy and comedy.

The present Theatre Royal, in Henry Street, was built by Mr. Joseph Fogarty in 1841.

The habits and manners of the playgoing gentry of Limerick have happily changed since O'Connell's time, as the following anecdote shows:—At the Bar Mess, during the Spring Assizes of 1812, one of the bar, Mr. Standish O'Grady, addressing O'Connell, who sat next him at table, said, "I am going to the play, O'Connell; will you come?"

"No, indeed," replied O'Connell, "the bills inform us the play to-night is under the patronage of the grand jury. I have had some unpleasant experience of those gentlemen, and can assure you they are not the most agreeable companions in a box after dinner."

O'Connell and several others of the Bar sat chatting at the Bar Mess, and before they separated for the night were joined by O'Grady.

"I thought, Standish," said Dan, "you were at the theatre?"

"I went there, sure enough," replied O'Grady, "and, Dan, you are quite right. I was shown into the centre box, and made myself comfortable in the front row, when a dozen noisy fellows came in. On seeing one of them had his head close to a peg on which I had placed my hat, I said to him, very civilly, 'I hope my hat does not obstruct your view. If so, pray allow me to remove it.'

"'Faith, my tight fellow,' he replied, 'you may take your oath it doesn't, for if it did, I'd kick it into the pit, and yourself after it.' Now, as this fellow and his companions looked as if they thought the kicking affair would be prime fun, and as I dislike being kicked in or out of a theatre, I made no remonstrance, but put on my hat and left the box."

I here conclude my "History of the Munster Circuit." I have followed its course from the days of Queen Elizabeth to the reign of our Most Gracious Sovereign, Queen Victoria. I have shown that during three centuries we have had upright judges, able advocates, and impartial jurors. I have preserved the names and recorded the achievements of our most distinguished barristers; their fame is our inheritance, and it is, certainly, a source of pride for me to reflect that for learning, for ability, for high principle, for every attribute which distinguishes men as barristers and as gentlemen, the members of the

Munster Circuit to-day may challenge competition with their renowned predecessors. If my history merits their approval, I shall be sincerely happy. Of those who were my beloved companions upon the Circuit for the greater part of my time, many are passed away, while others enjoy the honours of the profession, and now adorn the bench. Some few are still in harness, and, in reading over my pages, they, I trust, will find nothing to condemn. They were ever kind and friendly towards me, and I take this opportunity of expressing my belief that the Munster Bar deserves the high esteem in which it has been held by the public.

> "My task is done, my tale hath ceased, my theme
> Has died into an echo; it is fit
> The spell should break of this protracted dream.
> The torch shall be extinguish'd which hath lit
> My midnight lamp, and what is writ is writ."

Would it were worthier!

THE END.

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